MANU'S LAND AND TRADE LAWS

(Their Sumerian Origin and Evolution up to the beginning of the Christian Era)

BY

R. S. VAIDYANATHA AYYAR, B. A.

With a Foreword by

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HIGGINBOTHAMS
MADRAS

1927.

DEDICATED

By Kind Permission

to

Doctor L. A. WADDELL

LL.D., C.B., C.I.E., F.L.S., F.R.A.I.

In admiration of his laborious researches in connection with the Indo-Sumerian affinities and identities.

By the Author.

EXTRACT

Doctor Waddell writes from Scotland under date 26-1-27.

* * * *

"All my facts are fully attested in detail in my works and thus cannot be gainsaid. They are confirmed up to the hilt by my new works now nearing completion in the Press.—'The Sumer-Aryan Dictionary § to be published next month (February) and 'The Aryan-Sumerian origin of the Alphabet' to be published in March. The Dictionary proves in detail that all the Aryan Languages, ancient and modern, are derived from the Sumerian or Early Aryan and that in particular over 75 per cent. of the words in Sanskrit, Pali and English are derived from the Sumerian or Early Aryan. The second in the evolution of the Alphabet proves that all the Alphabets of the world, including especially the Asokan, Nagari and the English so-called 'Roman' are derived from the Sumerian picture signs for the simple vowel and single consonantal values in the Sumerian or Early Aryan writing. A third volume is also ready for the Press and will issue, I hope, about June, identifying the Indian Epic and Vedic Solar Kings from Ikshvaku down to Gadhi with the Sumerian Solar Kings of the 1st Dynasty downwards from their contemporaneous inscriptions. There are amongst others several actually existing inscriptions of King Bharat himself as a former ancient Sumerian King!"

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(Author.)

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FOREWORD.

The discovery of the Sumerians and their language is one of the greatest romances of archaeological science of the 19th century. The name "Sumerian" is applied to the earliest civilized Non-Semitic people of Mesopotamia and the credit for the discovery rests with Sir Henry Rawlinson, who announced it in 1855. "He noticed that the language in many of the texts from Nineveh and in a tablet from Larsa in Lower Babylonia was written in Non-Semitic language, that the Non-Semitic texts, which were mostly of a religious kind identical with the Assyrian, were furnished with interlinear Assyrian translations, and that many of these Non-Semitic words were found in other tablets containing bilingual lists (or 'syllabaries') of these words to which Semitic Assyrian equivalents or translations were attached, showing that these bilingual lists were used as dictionaries to this earlier Non-Semitic language. Further, he found several actual contemporary inscriptions in this early writing in the date-records, building inscriptions, bricks and votive texts unearthed in Southern Babylonia and Susa by W. K. Loftus, a scientific Geologist, and J. E. Taylor in their excavations, in 1852-54, *beneath* the Babylonian period foundations." From these and similar other facts Rawlinson concluded that this Non-Semitic early language was spoken by the early civilized inhabitants of Mesopotamia, who were Non-Semitic in race and have given the Semitic Babylonians and Assyrians their civilization, religion and alphabet. Rawlinson's discoveries were extended and confirmed

by Hincks and Jules Oppert. Spectacular confirmation of these conclusions was furnished in 1877 when the French expedition under M. de Sarzec unearthed at TELLO in the delta of Lower Babylonia the massive remains of a mighty Sumerian city and sea-port of about 3100 B.C. This old Sumerian city covered an area of about two-and-a-half miles by quarter of a mile in breadth and contained great buildings, palaces, temples, granaries, which teemed with stone scriptures covered with inscriptions in the old picto-graphic writing. Sacred and official scenes engraved with marvellous art and technique, alabaster and other vases, gold and silver jewellery, copper weapons, decorated pottery and a host of other objects of a highly civilized people were discovered amidst these ruins, in which the work of excavation was carried on for 23 years until 1900. The exploration of this city yielded records and monuments of great Sumerian kings who had built large public works and had left highly evolved codes of laws and regulations. Other expeditions both under French and American guidance all over Babylonia have yielded similar records of many other early Sumerian kings and governors. These discoveries which have been added to almost every year, have established conclusively that the Sumerians were the pioneers of civilization in this part of the world and that the Sumerian codes of law were the basis of Hammurabi's code of Babylon, which was the basis of the Mosaic code of legislation.

If the discovery of the Sumerians and their language was, in the words of Dr. Waddell, one of the greatest romances of archaeological science of the 19th century, it may with equal truth be stated that the discoveries made by the Indian department of Archaeology at

Harappa in the Montgomery district of the Punjab and at Mohen-jo-daro in the Larkana district of Sind in the past few years are one of the greatest triumphs of Archaeology of the 20th century. The excavations at Harappa which were started in 1920 disclosed a great city covering a vast area and containing many strata of successive buildings. The excavations started at Mohen-jo-daro in 1922 have proved still more fruitful. The finds from the two sites belong to the same stage of culture and to the same period of time and are distinct from anything previously known to archaeologists in India. Sir John Marshall has succeeded in eliciting evidence which establishes a close resemblance between the objects found in these buried cities of the Indus Valley and the Sumerian antiquities unearthed in Southern Mesopotamia. A detailed comparison of the pictographic scripts and the antiquities found in the Indus Valley and in Mesopotamia proves that the Indian scripts and antiquities are closely connected with the Sumerian antiquities of Mesopotamia and are roughly contemporaneous with those belonging to the third or the fourth millennium before Christ. Sir John Marshall has received evidence of similarity between the ceramic wares found at Mohen-jo-daro and at Kish in Mesopotamia, and a seal identical with those found at Harappa and Mohen-jo-daro was discovered beneath a temple of Hammurabi's time, 2100 B.C. Sir John Marshall draws the conclusion that, though the civilization of the Indus Valley has doubtless its own distinctive characteristics, it is essentially part and parcel of a much wider sphere of culture which embraced not only Mesopotamia and India, but also Persia, Egypt and a large part of Central Asia as well. He thinks, though in this he is cautious

to state it as only a hypothesis requiring further verification, that the dissemination of a Sumerian culture over this wide extent of the country may be due to India having been the cradle of Sumerian civilization which in its turn was the root of Babylonian, Assyrian and Western Asiatic culture generally. This, however, is yet only a hypothesis. What is undoubted is that the materials, seals, etc., of Sumerian type discovered at Harappa and Mohen-jo-daro show that a culture akin to the Sumerian culture of Mesopotamia was widely disseminated in the valley of the Indus for incalculable centuries on Indian soil. These discoveries have "at a single bound taken back our knowledge of Indian civilization 30 centuries earlier and have established the fact that in the third millennium before Christ and even before that, the peoples of the Punjab and Sind were living in well-built cities and were in possession of a relatively mature culture with a high standard of art and craftsmanship and a developed system of pictographic writing."

In the light of these discoveries which make Sumerian civilization and culture a matter for peculiar interest to the Indian reader, this little book which my old friend Mr. R. S. Vaidyanatha Ayyar has written on ancient Indian land and trade laws and their striking resemblance to Sumerian land and trade laws must be welcomed as a valuable contribution to our knowledge of the subject. Mr. Vaidyanatha Ayyar has been, for the most part of his life, engaged in the study and administration of modern land revenue and settlement in the Madras Presidency. He is therefore peculiarly fitted to deal with the ancient history of it. Whether the Sumerians are to be identified with the ancestors of the early Aryan

race, and whether their language and its alphabet were the parent of modern Aryan languages and alphabet, are matters which form the subject of discussion and enquiry by archaeologists, and doubtless we shall know a great deal more about them in the near future. Whatever may be the ultimate outcome, Mr. Vaidyanatha Ayyar has done a distinct service by this attempt to show that in the department of land and trade laws there is distinct evidence of kinship between ancient Indian and Sumerian civilization.

T. VIJAYARAGHAVACHARYA.

Simla, 11*th May* 1927.

PREFACE.

Though the Hindus have always claimed an antiquity of over five thousand years with agriculture as their mainstay from the period of the Rig-Veda, their land and trade laws during the first three millenniums have still been practically lost in oblivion and mythology, and all that is now known of them can be summarised in a few expressions, such as, loose ownership of land, unprogressive village communities, universal tax of one-sixth share of the gross produce and trade by barter. This is the beginning and end of the history of the landed institutions which we often used to hear from historians and which, by reason of it's convenient brevity and paucity of materials, has easily settled into incontrovertible facts. But the question arises whether a conquering and versatile race like the Indo-Aryans who were the foremost among the pioneers of what is called 'civilisation' in this world, could have remained in such depressive stagnation for over 3,000 years, especially when the Egyptians and the Babylonians who separated from the same family of races just about the same period prior to 3000 B.C., have bewildered the world by their ancient spectacular civilisation. In the words of a gymnosophist examined by Alexander the Great, it looks almost like an impossible question which can elicit only an impossible answer, or does not admit of an answer at all.

But history is, in the main, only the story of great men who figured in the past as makers of nations. This history was recorded and transmitted by the ancients in various ways. The Egyptians built up their history on

pyramids, tombs and temples, or buried its relics with the dead, to be unearthed several centuries later by some irreverent grave-diggers; the Babylonians inscribed it on stones, monoliths and tablets which, though lost for a time, could still be recovered and reconstructed, as is being done now; the history of the Hebrews, the Canaanites, the Levites and the Jews was preserved in the Bible itself; the Greeks and the Romans, being comparatively more modern, kept a regular record of their achievements and handed it down to posterity for preservation and continuance. But the Indo-Aryans alone resorted to '*memoriae mandare*' and burnt their history with the dead. Consequently when we begin to add up our old historical quantities, our 'two and two' always leads us to any other number except four.

Nevertheless, I tried to collect materials for tracing the evolution of Manu's land and trade laws by measured stages arranged, if possible, in some chronological order, but soon found that the path of evolution was not throughout continuous; where it was continuous, it disclosed no stages; and where some stages were visible, they either appeared to be shifted from their places, or did not fit in with the marches and halts indicated by the trend of the evolution. Seeing that mere literary and linguistic evidence drawn from classical and puranic works possessed very little historical value, I began to explore the parallel evolution of the Egyptian and Babylonian civilisation which has recently been reclaimed and surveyed by a noble band of Egyptologists and Assyriologists within the last 30 years. From the ruins of Babylon, Lagash, Susa, Merkes, Nineveh and other places in Mesopotamia, they have now unearthed King

Hammurabi's Code of Babylon, the Hattic Code of Cappadocia and the Assyrian Code together with thousands of contract-tablets and other monuments and have demarcated them in their fixed places in chronology, but unfortunately in complete detachment from the Indo-Aryan culture and civilisation. Though parallel lines never meet each other, it seemed to me that it should be possible to establish close historical connection between the Vedic, Epic and Smrithic culture of India and the Sumerian culture of Mesopotamia, especially as the Indus Valley and the Punjab originally formed an integral Sumerian colony of Central Asia. The Indian Archaeological Department recently discovered innumerable seals and grave amulets from beneath the foundations of the ancient Buddhistic buildings of the 2nd century B.C. in the Indus Valley and Dr. Waddell, one of the ablest and the most resourceful Assyriologists of the present day, has found that these Indo-Sumerian seals which actually belong to the several Vedic and Epic kings and sages, such as, Diva Daso, Sushena, Parasurama, Sakuni, Ghalava Rishi and a host of others, are inscribed in the most ancient Sumerian language of Central Asia. By deciphering these seals, he has now established beyond doubt the historicity of the once fabulous Epic kings and sages and connected them with the ancient historical personages of Mesopotamia with the help of the contemporaneous monuments still preserved in that country. India cannot, indeed, be too grateful to Dr. Waddell for his having opened up a long vista of background for future research into the dark and dusty corners of the Vedic and Epic theatres and for the collection of materials to convert its ancient mythologies into hard historical facts.

With the clues thus obtained, I have now fairly succeeded in tracing the Sumerian origin of the Code of Manu as well as its real author and date. It now appears perfectly clear that it was compiled by Parasurama in about 2300 B.C. from the same Sumerian and the Akkadian laws from which King Hammurabi's Code of Babylon was drawn up in 2100 B.C. Though as yet it is too early to dogmatise, it appears also fairly certain that the exploits of the Mahabharata and the Ramayana took place in the same century between 2300 B.C. and 2200 B.C. These and the other theories relating to the evolution of the land and trade laws of ancient India, which I have now evolved from the materials recently brought to light, are summarised in the concluding chapter of this thesis. However largely they may appear to be at variance with the established theories of the Indian antiquarians, they will, I am sure, be found to be based upon reasonable and satisfactory data capable of confirmation, if necessary, after further research by eminent Egyptologists and Assyriologists. Who knows that some day a monument containing the original Code of Manu in cuneiform will not be discovered in the Indus Valley, or from the ruins of the once famous seats of ancient culture and civilisation? But it requires the use of the spade rather than arm-chair research!

In the present investigation, I should acknowledge my indebtedness to the works of the famous Egyptologists and Assyriologists, such as, S. A. Cook, Revd. James Baikie, Arthur Weigall, L. A. Waddell and the Editors of the Cambridge Ancient History for all the materials connected with the Egyptian and Babylonian civilisation, and more particularly to Dr. Waddell who

has furnished the key to the solution of many of the mysterious problems connected with the historical aspects of the Vedic and Epic culture of India.

My special thanks are also due to M. R. Ry. T. R. Venkatrama Sastri Avl., B.A., B.L., C.I.E., Advocate-General, Madras, a great Sanskrit scholar and authority on Hindu Law, for his very valuable suggestions and advices in connection with the interpretation of Manu's original texts and the commentaries thereon and to M. R. Ry. S. Venkatrama Ayyar Avl., B.A., M.L., Assistant Professor, Law College, Madras, for the preparation of the Index. Needless to say that Sir T. Vijayaraghavacharya, K.B.E., M.A., has laid me under a deep debt of gratitude for the very interesting and instructive Foreword he has written in generous appreciation of this, my maiden, attempt to explore an untrodden field of research into the earliest epochs of ancient Indian history.

R. S. VAIDYANATHA AYYAR.

Madras, 16th May 1927.

List of authorities cited and abbreviations used.

Zimmer	Rig Veda	Zim. R. V.
H. H. Wilson	,,	Wil. R. V
J. Muir	Sanskrit Texts	Muir
Martin Haug	Aitareya Brahmana	Haug Ait. Brah.
Buhler	Code of Manu	Manu.
,,	Goutama	Buh. Gout.
,,	Vasishta	Buh. Vas.
,,	Boudhavana	Buh. Boudh
,,	Apasthamba	Buh. Ap.
Julius Jolly	Institutes of Vishnu	Jolly. Vish.
,,	Tagore Law Lectures	Jolly. Tag. Lect.
Sir W. Jones	Code of Manu	Jones. Manu
Burnell	,,	Bur. Manu
Medatithi	Manu's commentator	Medh
Kullukabhatta	,,	Kull.
Govindarajah	,,	Gov.
Ragavanandha	,,	Ragh.
Nandanacharya	,,	Nandh.
Naradha	,,	Nar.
Saranga Narayana	,,	Sar, Nar.
Ramachandra	,,	Ram.
M. M. Kumte	Vicissitudes of Aryan civilisation	Kum. Ary. Civil.
M. N. Dutt	Yagnavalkya	Dutt, Yag.
,,	Mahabharatha	Dutt Maha.
Griffith	Ramayana	Griff. Rama.
Monier Williams	Indian Wisdom	Mon. W. Ind. Wis.
Barnett	Antiquities of India	Bar. Antiq.
Mrs. Spier	Life in Ancient India	Spier. Anc. Ind.
Dr Shama Sastry	Kautilya Arthasastra	Kaut. Arth.
Patanjali	Mahabashya-Benares Edition	Mahabashya

Benoy Kumar Sircar	Sukra Niti	Suk. Niti
S. C. Sircar	Vyavastha Chandrika	Vya. Chand.
J. C. Ghosh	Principles of Hindu Law	Gh. H. L
J. D. Mayne	Hindu Law & Ancient usage	May. H. L.
M. Rollin	Ancient History	Roll. Anc. His.
M'crindle	The Invasion of India by Alexander the Great	M'cr. Anc. Ind.
M'crindle	Ancient India as described in Classical Literature	M'cr. Cl. Lit.
S. A. Cook	The Laws of Moses and Hammurabi's Code	Cook. Ham. Code.
Revd. J. Baikie	Life of the Ancient East	Baik. Anc. East.
Arthur Weigall	A History of the Pharachs	Weig. His. Phar.
L. A. Waddell	The Indo-Sumerian Seals deciphered	Wad. Indo Sumer.
J. B. Bury & Others (Editors)	The Cambridge Ancient History Vols 1 to 3	Camb. Anc His.
B. H. Baden-Powell	The Land Systems of British India.	Bad.-Pow.

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MANU'S LAND AND TRADE LAWS.

(Their Sumerian origin and evolution up to the beginning of the Christian Era.)

CHAPTER I.

The Scope and Object of the Enquiry.

Fallacy of the Socialistic and Communistic Origin of the Idea of Property:—In his Essay on Indian Land Tenures (Cobden Club Papers), Sir George Campbell observes:—"The long disputed question whether private property in land existed in India before the British rule is one which can never be satisfactorily answered, because it is, like many disputed matters, principally a question of the meaning to be applied to words. Those who deny the existence of property mean property in one sense; those who affirm its existence mean property in another sense. We are too apt to forget that property in land,"

"as a transferable marketable commodity absolutely owned and passing from hand to hand like any chattel, is not an ancient institution, but a modern development reached only in a few very advanced countries. In the greater part of the world, the right of cultivating particular portions of the earth is rather a privilege than a property —a privilege, first, of the whole people, then of a particular tribe or a particular village community and finally of particular individuals of the community. In this last stage, land is partitioned off to these individuals as a matter of mutual convenience, but not as unconditional property; it long remains subject to certain conditions and to reversionary interests of the community, which prevent its uncontrolled alienation and attach to it certain common rights and common burdens."[1] He is thus of opinion that the idea of property in India had passed through three stages, *viz.*, socialistic, communistic and individualistic and that, when and wheresoever the last stage might have evolved, the idea of private property in land is more or less a modern development reached only after the advent of the British rule, or perhaps never reached at all in this less advanced country. Notwithstanding the absolute want of basis for such strange propositions, the first two stages mentioned by Sir George Campbell are still commonly believed to indicate the imaginary, or at least the possible, stages through which the earliest conceptions of property should have evolved. The theories, apparently, owe their inception to the vague mention made in the Rig Veda of tribes, clans, patriarchs, and village councils and of a rough and ready system of patriarchal Government with no

1 Cited by Baden-Powell Vol. I, 219.

special reference to the idea of property or to any heterogenous village communities. These dim specks in the distant horizon, however, could give no definite shape to the idea, until some twenty-seven centuries later, the itinerating Greek historians that followed Alexander in his invasion over India, found proof of the existence of communistic property in some of the villages visited by them. For instance, Nearchos says that in most tribes the lands were cultivated by families in common and when the crops were collected "each person took a load for his support throughout the year and the remainder of the produce which was in excess of their requirements, was burnt in order to give them a reason for setting to work anew and not remain idle."[1] Onosikritos informs us that people in Mousikanos (Upper Sindh) took a common meal in the public as the Lacedominians did in Greece.[2] Still later, down to modern times, the communistic idea of property appears to have prevailed in some villages in the Punjab and the North-West Frontier, where according to J. D. Mayne "the land is so held that all the village co-sharers have each their proportionate share in it as common property without any possession of, or title to, distinct portions of it and the measure of each proprietor's interest is his share as fixed by the customary law of inheritance. The rents paid by the cultivators are thrown into a common stock with all other profits from the village lands and after deduction of the expenses the balance is divided among the proprietors according to their shares."[3]

1 M'cr. Cl. Lit. p. 72. 2 M'cr. Cl. Lit. p. 72. 3 May. H. L. p 300.

First, as regards the socialistic stage referred to by Sir George Campbell, Mr. Baden-Powell himself emphatically repudiates it in the following words.—"At the same time it must be clearly stated that we have no actual evidence of the first stage—evidence, I mean, showing that *universally* at one time, there was no such thing as individual, or even a family right, but that the whole tribe or clan regarded the land as really 'common' in a communistic or socialistic sense."[1] The theory of the socialistic origin of the idea of property is thus rejected as having absolutely no foundation whatever. Secondly, as regards the communistic idea of property, J. D. Mayne distinctly observes with special reference to the Hindu Law text books:—"So far as property consisted in land, they (the ancient Hindu writers) found a system in force which had probably existed long before their ancestors entered the country and they make little mention of it unless upon points as to which they witnessed, or were attempting, innovations. *No allusion to the village coparcenary is found in any passage that I have met.* Manu refers to the common pasturage and to the mode of settling boundary disputes between villages, but seems to speak to *a state of things when property was held in severalty.*"[2] The italics are ours. In his Tagore Law Lectures, 1883, Julius Jolly delivers himself also of the same opinion as follows:—"In those parts of India where the Smrithis were composed, the common enjoyment by the village community of pasture ground for cattle appears to have been still in vogue, but *the arable land was already held in severalty.* The owner of a field (Kshetrika-Kshetrin)"

1 Bad.-Pow. Vol. I, p 111
2 May. H. L. para. 236.

"is often referred to in the Smrithis and everything which is said about his position and rights, e.g., about his claim to damages for trespasses on his ground and about the decision of boundary disputes between two land-owners, shows him possessed of all substantial attributes of independent ownership."[1] Yet, with reference to another aspect of the question, Baden-Powell observes:—"It is true that we have ample evidence of a primal custom of re-distributing the holdings in particular tribes: but it always followed a distinct allotment of lands and an allotment which showed that there was a desire to equalize the holdings and not give all the best to some and the inferior to others. It is therefore open to us to interpret the distribution not so much as indicating a communistic idea of property, as indicating a desire to equalize."[2] Thus the theory of the communistic origin of the idea of property has also been exploded as fictitious. But closely allied to the communistic property was another form of *village system* in which property was found "subject to certain conditions and to the reversionary rights of the community which prevent its uncontrolled alienation and attach to it certain common rights and common burdens."[3] This so-called village system has been traced to a few anonymous texts introduced into the Mitakshara, viz.:—"Land passes by six formalities, by consent of townsmen, of kinsmen, of neighbours, and of heirs and by gift of gold and water." "Separated kinsmen, as those who are, unseparated, are equal"

1 Jolly-Tag. Lect. pp. 88—89
2 Bad-Pow. Vol. I, p. 111
3 Sir George Campbell's Essay on Indian Land tenures already quoted at p. 2 *supra*.

"in respect of immoveables; for one has not power over the whole to make a gift, sale or mortgage."[1] From these stray anonymous texts, Mayne also draws the inference that they point to a village system under which they could not dispose of lands to a stranger without the consent of the general body. As pointed out by Jolly, however, they indicate only the strength of the corporate feeling among the members of the village community in not allowing a stranger to step into the village without common consent, and the commentators themselves have rejected the texts as meaningless.[2] There is thus no warrant for the supposition that the idea of property in land ever prevailed in ancient India either in the socialistic or communistic sense, at any rate during the three millenniums before the Christian era.

Idea of property individualistic in origin:—In fact, it was the individualistic theory of property that was in vogue from the earliest beginnings of Indo-Aryan polity and which formed the essence of the Hindu Law of property as propounded by Manu. The Rig Veda, the Code of Manu and the Epics all indicate only the idea of property in severalty, the individual, of course, being represented by the head of each family. It originated in the 'family stage' even from the time of the Rig Veda and still continues in it for over five thousand years. This view is strongly supported by Baden-Powell who observes:—"We certainly must recognise that as regards most villages, property is still in the 'family stage'. The principle of joint succession when the head of the family"

1 Jolly-Tag. Lect. p 89
2 May. H. L. para 236.

"deceases, is clearly an indication of family property, and so are the devices of excluding females (who marry and so would take the land to another family), the restrictions on alienation by sonless male proprietors and the right of pre-emption by which strangers can be kept out."[1] As each family grew up into a large number of units, the family domains were subject to partition and subdivision, more or less, in the same manner as they are under the present Ryotwary tenure. As in the case of all other institutions, this individualistic system of land administration has also passed through several stages of development from its embryonic stage of loose ownership to the elaborate system of settlement of land revenue with each ryot, with each class of people and with each village founded by Chanakya in 320 B.C.

The stages of evolution.—The evolution of the individualistic theory of property has passed through the following stages in the order of their sequence:—

I.—The Vedic period—(5000B.C.—2500B.C.). The constructive period indicating the growth of practices and precedents.

II.—The Code of Manu—(2300 B.C.). The Legislative period following the establishment of early monarchies.

III.—The Epic period—(2300 B.C. to 1000 B.C.). The working period of Manu's Laws.

IV.—The Suthra period—(1000 B.C. to Christian era).

The period of amending legislation.

1 Bad.-Pow. Vol. I, p. 112.

Then follows the period of disruption and decay when the village-joint-renting system, the farming-system, the feudal system and a host of other bewildering tenures and sub-tenures rose up out of the ravages of internal commotions and foreign invasions on account of the want of protection from distant and fleeting monarchies. In the above order of evolution, we have departed from the usual chronological order in respect of the stage represented by the Code of Manu and have done so for very special reasons with reference to the contemporaneous evidence recently brought to light by the excavations made in Babylon, Lagash and the Indus-valley, as will be shown in the sequel.

Characteristics of the several stages of evolution.

The Indo-Aryans who composed the Rig Veda were not half-clad nomadic barbarians that came direct in one continuous march from the Valley of the Oxus to that of the Indus to learn the rudimentary arts of cultivating crops and cooking food, but were a highly cultured branch of the Indo-Sumero-Phoenician confederacy of nations who had already attained a high stage of civilization in Babylon, Assyria and Elam long before 3000 B.C. They brought with them into India their Sumerian culture, institutions and laws and developed them here on parallel lines, organizing themselves at once into *gramams,* clans and tribes, thence into well-ordered states and principalities governed by kings who extended their dominions far and wide by wars and conquests, keeping themselves at the same time in close touch with the Central Asian branches of the Aryan stock by trade and commerce. The large volume of business transactions that followed the development of the

ideas of property and wealth and the complexity of the social organization pointed to the urgent need of a code of laws at the head of the Post-Vedic period both in India and Babylon. In the former country, Bhrigu's son compiled the Code of Manu in 2300 B.C. and in the latter, King Hammurabi compiled an analogous code in 2100 B.C., both of which were recensions from the traditional laws common to the Aryan nations in Central Asia. The parallelism and the antiquity of the two codes will be fully described further on in Chapter III.

So far as land laws are concerned, all that is generally known of Manu's system is that he fixed one-sixth of the gross produce as the share due to Government. This rate of land tax has acquired so much sanctity and authority by insistent repetition that any attempt to dispel the illusions and wrong notions about it would now appear to be somewhat pedantic. Nevertheless, a closer examination of his system would show that the author of the code was not a quack legislator dealing with an ignorant pack of land-grabbers and wielding their destinies by one or two *slogams*, but one of the most far-seeing administrators of India, who, without a scientific survey or settlement, could manipulate the entire revenue from land by a small sliding scale of rates worked with a single safety-valve to maintain the equilibrium of the state finances. His main defect, however, was that he was somewhat lacking in the modern training for drafting legislation!

The Epic period marks the working stage of Manu's Laws under highly centralized monarchies wherein the taxes were regularly collected both in kind and in money from distant parts of the dominions and sent to the imperial coffers by a chain of graded officials judiciously

selected and carefully supervised. The benevolence of the administration and the thrift and enterprise shown by the people enabled all classes to extend their trade during this period from the Himalayas to Cape Comorin and from the Ganges to the Nile and the Danube.

The forces of social and political disruption had, however, gathered to a menacing degree sometime before the period of Chanakya, the famous Prime Minister of Chandragupta (320 B.C.). The repeated invasions by the Persians, the Indo-Scythians and the Greeks and the rapid rise of Buddhism soon began to shake the very foundations of the Hindu society and kingdoms, and the kings themselves were obliged to depend very largely upon a timid populace and intriguing adventurers who were only too ready to profit themselves by the fall of their own masters. It was under such conditions that Chanakya restored the Mauriyan Dynasty from the yoke of the Nanda King and at once tightly gathered up the loose strings of administration by instituting a somewhat militant, but thoroughly business-like, form of Government suited to the exigencies of his own kingdom. His famous Kautilya Arthasastra, though erring somewhat on the side of severity, still reveals the genius of an Imperial statesman, a stern administrator and a trained diplomat who could rise up to an occasion to save a kingdom from ignominious fall. If the author of the Code of Manu had been a great administrator, Chanakya was a still greater Finance Minister endowed with an instinct for the dollar. During this Suthra period numerous Samhitas and Niti Sastras grew up making amendments and additions to Manu's Laws according to local needs and peculiarities, followed by several commentaries on the Code of Manu itself. But neither Chanakya, nor the other law-givers,

could stem the tide of foreign invasions, or the comflicts between Hinduism and Buddhism. Attracted by the simplicity and austerity of the Buddhistic religion and the equality which it extended to all classes of people without distinction of caste, the lower classes began to revolt against the ascendancy of the Brahmanas who by that time had become somewhat degenerated. The Brahmanas began to cultivate pursuits which were once forbidden to them. A Brahmana hewed timber[1]; a Kshatriya became a teacher and a Sudra was initiated into the philosophy of religion. The Sudra imitated most of the Brahminical customs, ceremonies and *virtas* and the latter willingly allowed and encouraged it. Acts of charity and benevolence were commended in the place of animal sacrifices and the liberty of an individual to act for himself acquired a new significance. The Sudras who once occupied very nearly the position of slaves were so much elevated in rank, that Patanjali never called them by the name of 'Sudras', but invariably discribed them as '*Vrisalas*' or husbandmen. The Brahmanas who, by the acceptance of gifts, had become possessed of extensive lands and innumerable cows and bullock, soon took stock of their situation, conciliated the lower classes by allowing them greater privileges and concessions and began to cultivate a spirit of comradeship with them, thus paving the way for the growth of village communities with equal rights for the acquisition of wealth and property and for the development of their moral, material and intellectual resources. But the revolutions and wars into which kings were very often plunged and the flickering fortunes of their empires and kingdoms soon drove the peaceful citizens to migrate far away

1 Mahabashya III—4—1

into the interior of the dominions beyond the reach of kettle drums and javelins and to form new settlements and colonies under grants, sanads and agreements executed with the king. It was Chanakya that gave a legal status to such colonies which soon developed into village communities, democratic villages, or rural re-publics often mentioned by the Greek writers and the English constitutional historians. The origin and growth of these village communities will be more fully dealt with in Chapter VII *infra.*

Trade Laws inseparably connect'd with Land Laws.—These are in brief the main characteristics of the periods through which we propose to trace the evolution of the ancient land laws from 'the law of the settler in the bush' prevalent in the pre-Indian stages of Aryan immigration to the highly developed Ryotwary system of Chanakya (320 B.C.) worked on the basis of a practical scheme of revenue accounts, revenue registry and annual settlement of revenue with each individual, which we in this twentieth century have adopted almost *en bloc* with very little change in its general structure, or the nature of the tenure. As regards trade laws, it should be observed that agriculture and trade formed the sole occupation of a single community, the Vaisya caste, and trade was then mostly confined to the disposal of the produce from land. The trade laws are therefore so closely connected with land laws, and in fact overlap each other to such an extent, that it has been found difficult to separate them, especially when the same ryot paid a portion of his produce as land tax and other portions thereof as trade duties and tolls in different stages.

In tracing this evolution, particularly during the Vedic period, the main difficulty that confronts any investigator

is the paucity of direct evidence to establish the theory of property in severalty, but when once the spirit of individualism is found to have taken root in a society, it is not confined to the ideas of property alone, but permeates every phase of human life. Where we draw inferences in support of our theories from the mystic Rig Veda, the sectarian Code of Manu and the romantic Epics, we propose to adduce corroborative evidence from the parallel civilization of Egypt and Babylon, based as far as possible upon the materials newly discovered and reconstructed by the modern process of digging up ancient history from the entrails of the earth.

CHAPTER II.

THE VEDIC PERIOD (5000 B.C. TO 2500 B.C.).

The Antecedents of the Indo-Aryans.—Many thousands of years ago, the Aryans formed a community in 'Aryana Vayeja' near the banks of the Jaxartes ('*Yakshavarta*' in Sankrit) and the Oxus ('*Uksha*' in Sanskrit) and from this centre the several branches of the Indo-Germanic races radiated towards the south-west and south-east. The Indic branch, called the Indo-Aryans. first belonged to the same confederacy of nations as the Sumerians and the Mazdayasnians of Babylon, Assyria, Persia and Mesopotamia where they had already passed through the first five stages of evolution, viz., the Savage, the Pastoral, the Agricultural, the Chivalrous and the Monarchical stages. In the Savage state, they hunted wild beasts, yelling and brandishing their javelin-like poles, drinking soma juice to their hearts' content and living upon the flesh of animals cooked in whole.[1] Terrified by the forces of nature, molested by wild beasts and

1 R.V. I, 164; 43 where it is stated that the warriors cooked a spotted ox. The Rik Samhita throws light also on the most ancient practices that had passed away.

maddened by fury when attacked, they roamed about from place to place like a gang of hunters and explorers with no fixed habitations to live in. In the next Pastoral stage, they tamed the wild animals, collected cattle and kine and cultivated sympathies with them. Their modes of life then became sober and diligent and they soon settled down into families surrounded by numerous wives and children.[1] Pastures constituted their territory, cattle their wealth and milk their principal food. The settled life soon enabled them to observe the seasons and the stars, and to develop practical astronomy and meteorology. In the third stage, agriculture was gradually developed by yoking the bullock and breaking the horse. The cultivation of land was favourable to the growth of that spirit of industry which supplied the conveniences of life, and the surplus produce from the land soon improved the diet and paved the way for luxury and ostentation. With the development of agriculture, permanent property in the form of land and cattle was also acquired. In the next Chivalrous stage, the more powerful and ambitious leaders of clans acquired territories by conquest and established themselves as so many independent feudal lords surrounded by communities governed by the same social and religious institutions. Then followed the Monarchical stage, when the most powerful chiefs installed themselves as kings over vast dominions. The Aryans had already reached this last stage in Central Asia long before they entered India. The priests exhibited their intellectual powers in the presence of their patrons—"the Aryan warriors and rich merchants" referred to in several places in

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1 R.V. VII, 26—3 refers to polygamy—'As a common husband, his wives, etc.'

the Rig Veda. The warriors fought their battles with war chariots and implements, and merchants[1] made immense profits out of their trade. Their social, moral and material condition was, therefore, almost identical with that of the Sumerians and the Mazdayasnians or the followers of the Zendavesta. But from various causes due to religious, social and political differences, they soon came into conflict with the Mazdayasnians of Mesopotamia and the Khotris or Kshatriyas of Central Asia. This resulted in more than two or three civil wars between the two great races, in which several leaders on both sides took part and many fell in battle. Though ostensibly victorious in the conflict,[2] the Indo-Aryans who were an adventurous race of reformers addicted to animal sacrifices and the drinking of soma juice, wanted to recede from the most conservative, and often obstructive, Mazdayasnians and to migrate to India.

These social and religious civil wars were not confined to Central Asia alone; they extended also to Egypt under the Second Dynasty of Kings. Even during the prehistoric period before the First Dynasty, extending from 5500 B.C. to 3408 B.C. Egypt and Central Asia were in close contact with each other, the northerners of the Nile Delta being of Asiatic descent. In dealing with this prehistoric period of Egypt, Arthur Weigall observes:—"The new culture which gradually succeeds the culture revealed in the cemeteries of Upper Egypt, incorrectly termed 'prehistoric', shows many traces of"

1 R V. X, 125, 154, 173, 174.
2 Dr. Muir has brought together all passages bearing on the subject of the hostility of Indra and Tavestri—Vol. V, of his Sanskrit Texts p. 229.

"Mesopotamian influence, or rather it shows traces of affinity with the Mesopotamian civilization. The most striking piece of evidence in this regard is a knife-handle found near Näg-Hamädi in Upper Egypt and now in the Louvre. It evidently dates from a century or two before the time of Menes and the decorations can be seen at a glance to have a really Babylonian character. On other Egyptian knife-handles now in Cairo, Berlin and the University College, London, there are representations of entwined serpents very closely akin to those on the Gudea vase in the Louvre. Many other instances may be cited, but these will suffice to show that a definite connection between Lower Egypt and Babylon exists at this early period and that this civilization gradually spread into Upper Egypt blending with that of the earlier inhabitants; but it must be remarked that Egypt having received this foreign culture, soon made of it a far finer thing than Babylonia could ever have dreamt of."[1] Menes, the first King of Egypt under the First Dynasty (3407—3144 B.C.), "had occasional intercourse with foreign nations of equal culture and antiquity, the Kings of Kish and Erech in Babylonia, for instance, dating back to long before 5000 B.C."[2] These facts are mentioned simply to show that the Egyptians, the Babylonians and the Indo-Aryans were in close contact with each other in Central Asia before 3000 B.C. and that any great movement set on foot in Central Asia extended at once also to Egypt. This accounts for the spread of the religious and social conflicts between the Indo-Aryans and the Mazdayasnians of Mesopotamia to Egypt under the Second Dynasty (3143 B.C. to 2888 B.C.). During this period

1 Weig. Hist. Phar. Vol. I, p. 94 2 Ibid p. 106.

there were at least two desperate civil wars in Egypt between the Set-people (worshippers of God-Set or wild pig) and the Re-people (worshippers of God-Re or Sun). In regard to these Egyptian civil wars, Arthur Weigall points out:—"It seems to me that in this age the great clash between the different religious factors took place. The Second Dynasty—which indeed as we shall presently see is two dynasties rather than one—is a kind of melting pot wherefrom there came at last that peculiar compromise of conflicting priestly interests which characterises the Egyptian religion of later times. It was a period evidently of bitter struggle."[1]

We, thus, see that the conflict between the priestly classes and the other social orders was more or less widespread throughout Central Asia and Egypt during the period from 3143 B.C. to 2888 B.C. and that it furnished the reason for the Indo-Aryans to migrate into India, somewhere about the middle of this period, say 3000 B.C. Before entering India, they gave up a few barbarous customs prevalent in Central Asia, viz., the throwing away of the dead bodies to be eaten by birds and wild animals and marriages between brothers and sisters. The dialogue between Yama and his sister, Yami, in the Rik Samhita is a satire on the ancient practice of marriages between brothers and sisters. The corpses were burnt thereafter and their cremation constituted their final sacrifices to the Gods.

The invasion of India by the Indo-Aryans.—The Indo-Aryans advanced towards the Indus *en masse* together with their wives and children and a large

1 Weig. Hist. Phar. pp. 125—126.

body of camp followers known as 'Panchajanas'[1] i.e. military men, husbandmen, artizans, shop-keepers and bards. As soon as they entered India, they were confronted by the Dasyus of the Punjab, who unable to bear their onslaught soon surrendered, or retired to mountain fastnesses, or migrated towards the south. They then forced their way through mountains, forded[2] the rivers in shallow places, or crossed them in boats (Navas) and advanced some towards the mouths of the Indus and others to the banks of the Jumna and the Ganges. Different bands of Arayans marched under different leaders,[3] each bearing a banner[4] of his own, singing the prowess of his ancestors and blowing his conches.[5] Mounted on chariots covered with cowhides and armed with bows, arrows and darts, the leader often attacked a town with armies divided into infantry and cavalry.[6] When a town was occupied, Aryan institutions were established and Aryan Gods worshipped. Each leader thus carved out a kingdom for himself and many Aryan leaders, independent of each other, waged incessant wars with the Dasyus who, however, were never subjugated as a whole at any period of the history of the Aryans.

Vedic Civilization in India.—When Aryan kingdoms were thus formed, the princes held courts and lived a life

1 These Panchajanas are often referred to in the Rig Veda as settling and bringing land under cultivātion carrying with them their cows and performing sacrifices as they organized settlements. They are the professional camp followers that followed the leaders and not five different tribes as supposed by some authors.

2 R.V. VII 18—5.

3 R.V. I, 51—6.

4 R.V. I, 103—1—the banner is called Ketu.

5 R V I, 112—1.

6 R.V. I, 65—3, a horse charging an enemy is spoken of. Again Verse I, 73—9 speaks of horses opposed to horses, men to men and warriors to warriors.

of luxury surrounded by numerous retinues,[1] intrepid leaders such as, the Goutamas, the Kanvas and the Vasishtas, learned priests that performed sacrifices and received largesses[2] and rich merchants who lived upon usurious interest. Divadaso[3] had earned the reputation of a generous prince that performed sacrifices and bestowed largesses upon priests. The princes lived in neat and handsome mansions,[4] possessed harems,[5] wore neck ornaments and ear-rings[6] and dressed themselves like warlike Kshatriyas. Elephants were trained and horses were richly caparisoned.[7] Houses in places far remote from hills, which had no supply of stones, were usually constructed of mud, but where there was possibility of invasions from neighbouring kings and tribes, iron cities and fortifications were also constructed '*Purah ayasih*'.[8] Here it may be pointed out that the city of Babylon was according to Greek historians, protected by walls 87 feet in thickness and 350 feet in height with 25 gateways in solid brass and arches made of huge stones fastened together with chains of iron and melted lead. This description once appeared to be fabulous, but the explorers of the ruins of the city have since confirmed the veracity of this statement.

"The boundary wall of Babylon was formidable enough in all conscience. The fosse was faced on its"

1 R.V. IV, 4—1. A king with followers and elephants is mentioned.
2 R.V. I, 126 whole hymn.
3 R.V. I, 100—17.
4 R.V. I. 66—2—4.
5 R.V. III, 62—8, V, 60—4 & VII, 26—3.
6 R.V. V, 54—11 & 112—14.
7 R.V. I, 84—7, III, 41—9 & III, 42—1.
8 R.V. I, 58—8, II, 20—8, IV, 27—1 & VII, 3—7.

"inner side with a wall of burnt brick 3.3 metres in thickness. Then came the main outer wall, also of burnt brick 7.8 metres thick—then an interval of 12 metres and then an inner wall of crude brick 7 metres thick. The space of 12 metres between the two walls was filled in with brick rubble, so that the whole formed one tremendous structure over 26 metres, or nearly 85 feet in thickness."[1] There is thus only a difference of 2 feet between the early romance writer and the modern explorer! It is therefore no wonder that the Indo-Aryans who had passed through the Mesopotamian influence during more or less the same period, built their iron cities and fortifications to protect themselves from their enemies. War chariots were constructed by carpenters and weapons of war and other sharp edged implements, such as, spears (*Vasi*), swords or knives (*Asi*) and axes (*Parasu*) were also manufactured by blacksmiths with considerable skill. The earliest Kings of Egypt and Babylon also possessed similar war chariots and implements. It has lately been discovered that the far-famed Damascus blades were of Indian steel manufactured in the west of India by the most primitive process of boiling iron-ore mixed with various kinds of shrubs, green berries and dried branches of trees in closed crucibles which produced the peculiar watering or 'Jowhar' of the Damascus blades.[2] Ear-rings and finger-rings and yokes of chariots were made of gold and women adorned themselves with rich garments and jewels.[3] A holy man at the bottom of a well cries out "cares consume me as a rat gnaws the weavers' threads." From this and

1 Baik. Anc. East p. 234.
2 Spier. Anc. Ind.
3 R.V. IV, 3—2, V, 29—15, VIII, 46—3 & X, 71—4.

other poetic similes it appears that the art of weaving was carried to such perfection that they produced the finest silks and muslins even at that remote age. Egyptian mummies of a date prior to 2000 B.C. have been found wrapped in Indian muslins, showing thereby that the Indian products had reached Egypt and Arabia even in the Vedic period. Ships propelled by oars—(*Navam arithra paranim*) are said to have been sent out to sea—(*Navah Samudrayah*) by merchants covetous of gain whose ships crowded the ocean.[1] The laws of contracts and agreements had come into existence and sometimes exorbitant rates of interest[2] were also charged. The Indo-Aryans would thus appear to have developed their arts, industries, manufactures, trade and commerce to a high state of efficiency and provided themselves with all articles of necessity, comfort and luxury. The kings themselves liberally patronized the artizans and appreciated labour and enterprise.[3]

Vedic Polity and Administration.—The administration of the kingdoms appears to have already been placed on a settled footing by the institution of a graded chain of heads and chiefs, such as, Vrajapatis, Vispatis, Rashtrapatis and so forth, the affairs of each village being managed by its own Sabha or Municipality (*Jana Niyuktha Sabha*) presided over by a head. Several such villages forming a clan had a chief over them and over several such chiefs there were lords or Rashtrapatis. These are the first beginnings of the heads of one, ten,

1 R.V. I, 56—2.
2 R.V. III, 53—14.—"Bring them (cows) to us; (bring also) the wealth of the son of the usurer."
3 R.V. I, 17—31, I, 79—1 & I, 112—24.

twenty and hundred villages mentioned by Manu later on. Each tribe, which thus comprised several *gramams* and clans, formed a perfectly independent principality with its own habits, customs and laws. The whole constitution was thus an autonomous commonwealth of clans governed by a king who levied from all his subjects a fee for protection. Under this system the Aryan *gramams* mention in the Rig Veda showed a vigorous growth of individualism and a marvellous economic development.

Land and Agriculture.—Agriculture formed the mainstay of the Vedic Aryans as appears from the frequent references made in the Rig Veda to artificial irrigation by water courses and lakes. Queen Semiramis, the founder of the city of Babylon, constructed one of the biggest lakes near the city to serve both as an irrigation work and a flood moderator by drawing off the excess supply from the river, Euphrates. King Amenemhat III of Egypt (2000 B.C.) also constructed a big lake called 'Lake Mœris' to regulate the inundations of the Nile. The construction of canals and lakes was thus regarded by all the three ancient nations as a necessary preliminary to improved agriculture requiring the greatest attention at their hands. The Vedic Aryans laid out their lands into fields and measured them by rods, obviously to distinguish individual enjoyment and ownership; in other words, they carried out a cadastral survey of the arable lands with a view to arrive at computations of areas owned by each individual. They cultivated their lands alternately with pulses which improved them and cereals which exhausted them. The fields were ploughed by a species of drill plough, a specimen of which is figured in Ferguson's

Ninenah, page 298, and the date is supposed to be before the date of Nebuchadnazar.[1] The Indo-Aryans were not only acquainted with a large variety of food grains and pulses, but also with the suitability of particular soils to particular crops, as well as the transplantation and rotation of crops, and they adjusted their cultivation to the varying conditions of soil, climate and irrigation. The prosperity of the villages was usually reckoned by the number of the seven[2] kinds of cattle possessed by them, viz., elephants, horses, bullocks, cows, oxen, rams and ewes. Similarly the Egyptians also took advantage of the excellent slime brought in by the river Nile and cultivated three or four crops in a year. They also held their lands in severalty and measured their wealth by the number of cattle owned by each individual. Here in India, the patriarch, his sons and grandsons regularly cultivated their lands, and when necessary they mounted their horses sword in hand and marched against their enemies. As yet, the so-called priests were not afraid of wielding the sword, nor were the Kshatriyas ashamed of tilling the lands.[3] Ownership of lands then depended entirely upon possession which was considered nine-tenths of law. The Aitareya-Brahmana also confirms this theory thus: "As far as possession is concerned this is ours."[4] Each family retained possession of its lands permanently as its own and though the *pater-familias* was not the individual owner according to the strict principles of the later Hindu Law of joint family succession, he was still the last individual unit of land-owners in whose name all land transactions took place

1 Spier. Anc. Ind. p. 151.
2 Haug. Ait. Brah. p. 17.
3 Ibid VII, 18.
4 Ibid III, 28.

and to whom the Government always looked for the payment of its taxes on land.

The Growth of Priestly Classes.—Just towards the close of the Vedic period, the priestly classes who created civil wars and commotions in Mesopotamia, had soon consolidated their position in society and strengthened their hold thereon by setting themselves up as the inevitable agents for the performance of the numerous sacrifices and ceremonies whose details were beyond the comprehension of the ordinary people. They at first formed only a fraternity without any legal status of superiority by birth. They were ready to take gifts, thirsty after drinking soma, hungry of eating food and ready to roam about according to their pleasure.[1] The people distinguished good priests from bad priests and the high priests themselves degraded some of their unworthy members to the position of secular Brahmins and Vaisyas and elevated worthy Kshatriyas to the position of Brahmavadins. There was thus keen competition among the priests themselves to attain spiritual and intellectual greatness, so as to gain the favour of kings and chiefs. The gifts made to them often consisted of chariots, horses, troops of slaves and hundreds of cows which enabled them to live in splendour.[2] The priest who resided in the mansion of the king did not exercise any influence in political matters, or in the administration of the territory, but he was often approached with great respect for advice on all important matters affecting the royal families and for the exposition of the laws of Dharma or Justice. In contrast with the advance of the priestly classes, the Kshatriyas

1 Haug. Ait Brah. VII, 29 2 Ibid I, 126.

became luxurious and indolent; their chivalrous and predatory life had gradually passed away, giving place to pomp and vanity which compelled them to entrust the actual reins of government in the hands of the secular members of the priestly classes acting as ministers, judges and advisers. But quite unaffected by the spiritual, or the regal splendour of the higher classes, the industrious business-communities continued to ply their trades and professions paying their taxes regularly to the King. The Dasyus and the aborigines incorporated into the Hindu society were made to serve all the above classes, as they belonged to the subjugated races indigenous to the country.[1] Thus were the beginnings of the caste system[2] slowly worked up and developed after the advent of the Indo-Aryans into India and towards the close of the Vedic period from about 2800 B.C. to 2300 B.C. with the Brahmins at the head of the national directorate.

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1 Haug. Ait Brah. VII, 29.

2 We have been obliged to refer to the caste system here, as it throws a flood of light on the origin and authorship of the Code of Manu dealt with in the next chapter.

CHAPTER III.

THE SOURCE, AUTHORSHIP AND ANTIQUITY OF THE CODE OF MANU.

SECTION (i).—*The Source of the Code of Manu.*

Current Theories.—The Code of Manu is one of the oldest and the most sacred code of laws in the whole world, which has formed the subject of close investigation by numerous eminent scholars and antiquarians for nearly a century and has thereby gathered around it a vast and varied literature richly reminiscent with profound scholarship, research and analysis. The age of the work in its present form has been placed by Sir W. Jones at 1280 B.C.; by Schlegal at about 1000 B.C., by Mr. Elphinstone at about 900 B.C., while Monier Williams, Prof. Max Muller, Dr. Jolly and Dr. Burnell would bring it down to somewhere between 500 B.C. and 200 A.D. But seeing that the pendulum of their ideas of chronology has oscillated between the two ends of a millennium, the later-day scholars have adopted 500 B.C. as a reasonable average age! We yield to none in our admiration of this little band of early antiquarians who were chiefly instrumental in lifting

up the veil of ignorance of the Hindus in their own sacred laws and books and who carried on their investigations with a love, zeal and tenacity peculiarly their own. But the one great difficulty under which they laboured, was that they had not the advantage of the recent historical and archaeological researches of the twentieth century which have since revolutionized many of our old theories and conceptions about ancient Indian history; nor had they access to any other reliable contemporaneous models in other Asiatic countries with which they could compare the conditions of the Indo-Aryan society of Manu's period. Albeit most of the scholars were convinced of the peculiarly primitive character of Manu's Laws and of the society and polity with which they dealt, they invariably started from premises and landmarks set up on this side of the Christian era and tried to push the Code back into the past as far as their ingenuity could take it; and in doing so, most of them were lost in the examination of the deceptive linguistic and literary evidence and of the sidelights thrown by other Sanskrit works of a considerably later period. This was, perhaps, the only method they could adopt under the then conditions of research, but, curiously enough, one significant feature of the whole controversy was that, though all of them had the same data and materials to work upon, no two scholars could agree in entirety as to the approximate date of the Code. The authorship of the Code also is still shrowded in mystery, it being considered to have been compiled by a nameless son of an unknown Bhrigu. We have now ventured to trace its source, authorship and antiquity with reference to reliable historical evidence and with the help of the clues furnished by Dr. Waddell and other Assyriologists and Egyptologists to

connect the Vedic, Epic and the Smrithic culture of India with the Sumerian culture of Central Asia.

Excavations in Egypt.—Till about thirty years ago, the romances of the ancient civilization of Egypt and Babylon were regarded as mere mythologies and fables woven by Herodotus, Diodorus and other Greek writers. But the excavations made in recent years by the English, the French, the German and the American explorers in the valleys of the Nile and the Euphrates and the tracts in and around the Holy land have brought to light a rich mine of resplendent historical data written on stones, monoliths and tablets which not only vindicate the veracity of the Greek romance writers but have also turned many of the ancient incredible fables into hard and incontrovertible facts. The excavations made at Abydos, Naqada, El-Amrah, Naga-Ed-Der, the Valley of the Kings, the Valley of the Indus, Sumer and Akkad have now induced the modern Egyptologists and Assyriologists to antedate the beginnings of human existence to somewhere about 7000 B.C. The beginnings of government are now laid in Egypt at about 5510 B.C. and in Lagash, the earliest Sumerian City-State of Babylonia, at about 4000 B.C. At Abydos in Egypt the explorer's spade has disclosed to us "Pharaoh of 4000 B.C. no uncultured savage, but a stately glittering figure, cultured himself and the cause of culture in others, girt with many a baron bold, commanding the resources of a mighty nation already far advanced on the path of civilization and served by men of genius and of a technical skill which has no cause to blush in the presence of the greatest triumphs of the later art."[1] To superintend the affairs of the Kingdom, the

1 Baik Anc. East p. 48.

early Pharaohs had two Viziers, the Northern Vizier and the Southern Vizier. Below them were 'counts' or 'governors' and 'mayors' or 'town-rulers' and a host of subordinate officials called 'scribes'. A regular budget was framed in the Vizier's office to determine the amount of taxes to be collected and the distribution of the revenue when collected. Each local official made a fiscal report every month to the Vizier who always maintained a balance sheet to determine income and expenditure and who furnished the King from month to month a full statement of the prospective resources of the Royal treasury. "Every morning the people crowded into the 'Hall of the Vizier', where the ushers and bailiffs jostled them into line that they might 'be heard' in order of arrival one after another. In cases concerning land located in Thebes, he was obliged by law to render a decision in three days; but if the land lay in the 'South or North', he required two months. . . . . No one might make a Will without filing it in the Vizier's Hall. Copies of all *nome* archives, boundary records and all contracts were deposited with him, or with his colleague in the north. Every petitioner to the King was obliged to hand in his petition in writing at the same office."[1] The Provision office is one of the State Departments mentioned in the Seals and no doubt dealt with the payment of taxes in kind. Lands were chiefly owned by the King and were cultivated by the King's serfs, or entrusted by him as permanent and indivisible fiefs to his favourite nobles, partisans and relatives The tenants of what were called "untitled classes" acquired divisible holdings. The property held as fiefs from the King could not be disposed

1 Camb. Anc His. Vol. II, pp. 45, 46.

of by the owners, while those held as divisible holdings were the paternal estates which could be bartered in perpetuity with the various contracting parties.[1] "For purposes of taxation, all lands and other property of the crown, except that held by the temples, were recorded in the tax registers of the White-House, as the Treasury was still called. On the basis of these, taxes were assessed. They were still collected in kind—cattle, grain, wine, oil, honey, textiles and the like. Besides the cattle-yards, the 'granary' was the chief sub-department of the White-House and there were innumerable other magazines for the storage of its receipts. All the products which filled these repositories were termed 'labour', the word employed in ancient Egypt as we use 'taxes'. If we may accept the Hebrew tradition as transmitted in the story of Joseph, such taxes comprised one-fifth of the produce of the land."[2] The high development of the conception of property in Egypt is also revealed by the mortuary endowments. In a tomb close to the pyramid of Khephren "the owner of the tomb declares that he has left to his mortuary priest certain property and serfs, the revenues from which are to accrue to the priest, in return for the keeping up of the funerary cult and offerings to the testator after his death. This in itself is straightforward. But the testator then proceeds to tie up the property. The legatee may not sell or bequeath it, but it descends to his children and to anyone else who may share with them the duties of funerary priest to the testator."[3] The Egyptians thus owned and enjoyed their lands in severalty, and in order to adjust the property of

1 Camb. Anc. His. Vol. II, p. 213.
2 Ibid pp. 44, 45.
3 Ibid p. 212.

their lands which were every year inundated by the river, Nile, they had recourse to annual surveys which taught them Geometry. As their country was level and the sky always serene, they were among the first to attain high proficiency in Astronomy. Their year was from the remotest antiquity composed of 365 days and 6 hours. They had already at this early stage of their history discovered the use not only of phonetic signs standing for a whole syllable, but also of true alphabetic signs each standing for one consonent. They had thus in hand the key to the modern system of writing two and a half millenniums before it had become known to any other people.[1] The trade of the East was centralized in Egypt even from the very earliest times and the products of India, Arabia and Persia were carried by sea and unloaded at Portus Muris, a seaport town on the western coast of the Red Sea; from there they were taken on camels to a town, called Thebais or Cophat, and afterwards conveyed down the Nile to Grand Cairo and other Mediterranean ports. King Osymondyas, one of the most ancient Kings of Egypt, is said to have invaded India and advanced as far as the Ganges, thereby establishing a close contact with the Indo-Aryans.

Babylonian Excavations and Contract Tablets.— Thousands of tablets inscribed in cuneiform have been discovered at Ninevah, Babylon and Lagash, which contain a vast written literature on all conceivable subjects and which furnished the key to the ancient literature of the oriental world. "Many of the tablets were copies of far more"

1 Baik. Anc. East p. 44.

"ancient Babylonian writings and grammatical manuals with bilingual texts in which the Babylonian text is accompanied by its equivalent in the most ancient language of the land."[1] The tablets found at Nippur by the American Expedition and at Merkes by the German Expedition illustrate the marvellous expansion of business transactions even prior to 2000 B.C. "There are also hundreds of texts relating to the language and of a very large number of business documents chiefly relating to the operations of the great Banking Firm of Murashi which conducted business at Nippur in the fifth century B.C. These give a useful parallel to the records of the great Firm of Egibi of Babylon which was established before the time of Senacherib and which in the period of the Neo-Babylonian empire and the Persian rule, became the Rothschilds of the ancient world, lending money to the State as well as to private individuals. The Firm of Egibi comes comparatively late in the history of Babylon, but the multitudes of contract tablets found in the Mound of Merkes by the German Expedition and elsewhere by earlier explorers show that at least as early as the days of Hammurabi (2123 B.C.—2081 B.C.), business in Babylon was as thoroughly organized as at the present time and that the Semite of that early date had already developed the remarkable business instinct which has characterised his descendants ever since."[2] These contract tablets of Babylon afford a striking parallel to the numerous business documents referred to in Laws of Usury framed by Manu on the recovery of debts, the levy of the numerous kinds of interest, such

1 Baik Anc. East pp. 283, 284.
2 Ibid pp. 247, 248.

as, annual interest, periodical interest, legal interest, stipulated interest, compound interest and corporal interest and the restitution of pledges and deposits. In the days of King Gudea, 2450 B.C., Lagash showed a remarkable picture of "architectural sumptuousness and commercial enterprise," the commerce then extending to distant foreign countries. "Gudea's materials came to him not as spoils of war, but by the peaceful avenues of trade. It was not only commodities that were exchanged between states in those days; there was also international exchange of skill and craftsmanship on occasions which called for such a thing."[1]

KING HAMMURABI'S CODE OF BABYLON AND THE CODE OF MANU.

Another discovery of supreme importance establishing beyond doubt the place of Babylon in the history of human development was made in the land of Elam at Susa which was once the capital of the Elamite Kingdom. Here M. J. de Morgan excavating for the French Ministry of Instruction found in January 1902 three large pieces of black diorite which, when fitted together, formed a complete monolith slab 88 inches in height, 73 inches in circumference at the base and 65 at the top. The stone now stands in the Louvre in Paris. It contains the Code of King Hammurabi of Babylon who ascended the throne in 2123 B.C.,—a date which has been fixed astronomically by Kugler,—and died in 2081 B.C. He was the sixth king of the First Dynasty of Babylon. The whole inscription originally contained 49 columns, 282

1 Baik Anc. East pp. 247, 248.

sections, 4000 lines and 8000 words. Of these, 5 columns containing about 35 sections are now erased, probably by the Elamites, the ancient rivals of Babylonia. The structural and cultural identities of this Code and the Code of Manu are so very striking that one cannot resist the conclusion that they were both compiled from a common source and in close proximity to each other in point of time. Reserving, for the nonce, the detailed examination of the Code of Manu to the next chapter, we shall briefly describe here the general provisions of Hammurabi's Code[1] with special reference to the corresponding portions of the Code of Manu, so as to bring out clearly their common origin and parallelism.

The Code comprises three divisions, the Prologue, the Code and the Epilogue. The Prologue describes in magniloquent language the achievements of King Hammurabi and the manner in which he obtained the revelation of the laws from the Sun-God, Samos. The Epilogue is also as grandiloquent as the Prologue, in which the King commends his laws to the observance of his successors and invokes curses on those that disregard them.

The Code commences with two laws relating to witchcraft (§ 1 & 2), followed by three dealing with witnesses and judges (§ 3—5). A series of laws on theft (§ 6—8) and stolen property found in the hands of others (§ 9—13) leads up to kidnapping (§ 14) and fugitive slaves (§ 15—20) and ends with burglary and brigandage (§ 21—25). Another series deals with the

1 NOTE.—For the following particulars of Hammurabi's Code we are specially indebted to "The Laws of Moses and the Code of Hammurabi" by S. A. Cook, "Life of the Ancient East" by Revd. J. Baikie, "The Cambridge Ancient History" Vol. I, and "The Encyclopedia Britannica" XIth Edition, Vol. III.

duties and privileges of gangers[1] and constables[2] (§ 26—41). Next follow the land laws and provisions relating to the cultivation of fields (§ 42—56), the responsibility of herdsmen (§ 57 & 58) and various enactments concerning gardeners (§ 59—65). This ends at the foot of the sixteenth column. Here five columns estimated to contain about 35 sections are erased. The rights of merchants and agents (§ 100—mutilated—107) are followed by a small series of four relating to wine-merchants and the price of wine (§ 108—111). Debt and deposit are handled in fifteen sections (§ 112—126). The laws coming under the head of family relations constitute a small code in themselves (§ 127—193). Starting with slander (§ 128), the code touches on adultery, violation and suspicion of unchastity (§ 129—132); separation and divorce in its different aspects (§ 133—143) are closely linked with the laws regulating the taking of a second wife or concubine (§ 144—148). Three laws relate to women's property (§ 150—152). A small series bears upon various forms of unchastity (§ 153—158) and the regulations respecting the purchase price for the bride and her marriage portion (§ 159—164). The laws of inheritance (§ 165—184) range over the rights of wife, children, maid-servants, slaves and their children, widows and a particular class of women. The family code comes to an end with nine laws on adopted children (§ 185—194). Another series is concerned with the responsibility for death, assault, etc. (§ 194—214) and, in addition to fixing penalities, enacts the honorarium to be paid to Doctors and Veterinary Surgeons (§ 215—

1 Gangers are overseers or captains of troops.
2 Constables are a kind of press gang officers.

225). In the same series are included the laws relating to the branding of slaves (§ 226 & 227), the responsibilities of the builder (§ 228—233) and of boatmen (§ 234—240). Another series is more precisely restricted to agricultural life, laws dealing with oxen, their hire and care, wages of agricultural labourers and artizans and the responsibility for loss (§ 241—274). Three laws follow on with the prices for hiring boats (§ 275—277) and the code concludes with five sections on the buying of slaves and a ferocious penalty for the slave who repudiates his master (§ 278—282).[1] The main distinguishing features of this code are the complete absence of the religious element in it and the inclusion of the rules relating to Witchcraft, Doctors, Veterinary Surgeons, Gangers and Constables, Gardeners, Builders, Wine-merchants and Slaves. Barring these few special provisions which were apparently introduced to suit local peculiarities, the civil element in this code is closely analogous to that of the Code of Manu as shown below.

The Code of Manu deals with Judges (VIII. 9, 11—23, IX. 234), Witnesses (VIII. 60—107, 112, 254—262), Robbery, burglary and brigandage (VIII. 6—332, IX. 274—276, 280, X. 252—255, 257—260, 261—293), Land laws and cultivation (I, III, IV & VIII to XI), Responsibilities of herdsmen (IV, VIII to X), Merchants and Agents (IV, VII to X), Debts and Deposits (VIII), Slander (VIII), Marriage contract (III, VIII & IX), Adultery, unchastity and violation (IV, VIII, IX, XI & XII), Separation and divorce (IX), Second wife and concubinage (III, V & IX), Woman's property (VIII & IX), Bride's price and marriage portion. (VIII & IX), Laws of Inheritance (IX to XI),

1 S. A. Cook Code Ham. pp. 8—10.

Adoption (IX), Death, Assault, etc. (IV, VIII, IX & XI), Boatmen (VIII), Hire and care of cattle (VIII to X), Wages of agricultural labourers (VIII), Artizans (IV, V, VII, VIII&X), Hiring boats(VIII), Boundary disputes(VIII & IX), Contracts (VIII & IX), Disputes between owners of cattle and herdsmen (VIII to X), Documents (VIII & IX) and Judicial procedure (VIII).

Though the actual provisions are illogically arranged and scattered over several chapters, even a cursory glance over the subject heads dealt with in the Code of Manu unmistakably reveals the close parallelism of the conditions of society and polity prevalent in both the countries. The society in Babylonia was in fact built up more or less on the same foundations on which the caste system of India was worked, with the only difference that the Brahmin did not exist there as a separate caste claiming ascendancy by birth.

Before examining the actual conditions of the society in the two countries and the detailed provisions of the two codes, it seems necessary to refer here to a remark made by Dr. Bühler in regard to the introductory chapter of the Code of Manu which gives a description of its own origin, much in the same manner as the Prologue to King Hammurabi's Code indicates how the King received the revelation of his laws from the Sun-God. Dr. Bühler observes:—"The whole of the first chapter must be considered as a later addition. No Dharmasutra begins with a description of its own origin, much less with an account of the creation. The former which would be absurd in a Dharmasutra, has been added in order to give authority to a remodelled version. The later has been dragged in, because the myths connected with Manu presented"

"a good opportunity to show the greatness of the scope of the work."[1] If only Dr. Bühler had seen King Hammurabi's Code and its Prologue which point to the model the ancient law-givers had set before themselves in drawing up their Codes of Laws, he would have realized the danger of drawing inferences from, and of speculating upon, mere literary and linguistic evidence.

First, as regards the Babylonian Society, it was divided from the time of the very First Dynasty into three classes, or more appropriately 'castes' viz., the *'Amelu'* or the patrician, the *'Mushkenu'* or the commoner, and the *'Wardu'* or the slave. Manu's Brahmin caste is missing here, but the 'Amelu' combined in himself the strength and valour of the Kshatriya, as well as all the virtues and faults attributed to the Brahmin. The Amelu was the man of the predominent class and was often, but not necessarily, an official of the Government, or a priest of the people. He might be a poor man, but even so, he was always on a higher footing than any wealthy member of the class below him. (*C.f.* the respect ordained by Manu for even the poorest of Brahmins).

The *Mushkenu*, the class next in rank, was a freeman and a commoner. He lived in a special quarter of the city *'the Mushkenutu'* and was the backbone of the business community, claiming no pretensions to a share in the sweets of officialdom. His sole business was agriculture, trade and commerce and he held vast property and slaves. This class corresponds to the Vaisya caste of Manu. Lowest of all came the *Wardu* or the slave, who was a

1 Büh. Manu. Intro. p. LXVI

mere chattel of his master. He could be sold or pledged, and branded or fettered at his owner's will, while if he was injured, the compensation for his injuries went to his master. These Wardus correspond to the Sudra caste of Manu.

In the administration of justice, King Hammurabi held the same view of '*Noblesse oblige*' as Manu and regulated his punishments with reference to the castes to which the offenders belonged. 'Eye for an eye' and 'tooth for a tooth' were the essential features of Hammurabi's criminal law. "If a man destroy the eye of another man, they shall destroy his eye."—"If one break a man's bone, they shall break his bone"—"If a man knock out the tooth of a man of his own rank, they shall knock out his tooth"—"If a doctor operate on a man for a severe wound with a bronze lancet and save the man's life, he shall receive ten shekels of silver." This was for a patrician. The operation on a plebeian only carried five shekels and in the case of a slave, only two. The penalties for unskilful practice were deterrent. "If a doctor operate on a man for a severe wound with a bronze lancet and cause the man's death, or open an abscess in the eye of a man with a bronze lancet and destroy the man's eye, they shall cut off his fingers—no more bungled operations from that practitioner!"—"If a doctor operate on a slave of a freeman for a severe wound with a bronze lancet and cause his death, he shall restore a slave of equal value."—"If a builder build a house for a man and do not make its construction firm, and the house which he has built, collapse and cause the death of the owner of the house, that builder shall be put to death. If it cause the death of a son of the owner of the house,"

"they shall put to death the son of that builder." In Babylonia, the sale of wine appears to have been always conducted by women and on this account Hammurabi had no very high opinion of their character or loyalty. "If outlaws collect in the house of a wine-seller and she do not arrest these outlaws and bring them to the palace, that wine-seller shall be put to death."—"If a priestess who is not living in the sacred precincts, enter a wine shop for drinking, they shall burn the woman." These so-called 'priestesses' appear to be women dedicated to temple service and otherwise called 'temple women". The above are the punishments for professional misdemeanour, but the following are some of the striking instances of punishments according to caste. The Amelu who strikes a man of his own rank has to pay a fine of one mina of silver, while the Mushkenu who is guilty of the same assault on a plebeian, is only fined ten shekels of silver. A plebeian who strikes a man of superior rank is sentenced to sixty strokes with an ox-tail whip administered in public. While a patrician pays with the loss of his own eye or tooth for having destroyed the eye or tooth of a fellow patrician, he is only fined for a similar outrage on the person of a plebeian.

The laws relating to marriage and family life were of considerable strictness, especially those intended to preserve the sanctity of family life and the purety of descent. In the Central and South-West Asia, marriages took place in ancient times with sisters, cousin sisters, nieces and aunts. Moses was himself the son of a marriage between a nephew and a paternal aunt. In Babylonia of Hammurabi's time, however, these primitive practices

had fallen into disuse and marriage had come to be regarded more as a contract between man and woman than as a religious necessity. Adultery, outrage and slander were severely punished as also carnal knowledge of daughters, daughters-in-law, step-mothers and so forth. (*C.f.* the rules prescribed by Manu for similar offences in Ch. 4, 8, 9, 11 & 12). But public prostitution of women seems to have been as common in Babylon as in ancient India. In fact, the system of public prostitution in India seems to be of Babylonian origin and the harlots in both the countries were held in low repute and shunned in decent society. (*C.f.* Manu Ch. 4 & 9). Though ordinarily women were held in a position of subordination to men, their rights to property were still protected with minute care, and they were placed in a position of freedom and independence of their husbands (*c.f.* Manu Ch. 8 & 9). But for misbehaviour, neglect and disrespect to husband, the woman was liable to be drowned in a river. Revd. J. Baikie wonders how many deaths by drowning would take place in an average modern community, were Hammurabi's legislation suddenly to come into force! In the same humorous vein, we might also exclaim in wonder how many noses, hands and other organs would be cut off among modern Hindus, were Manu's penal laws suddenly to come into force!

Land in Babylonia had long been either private property, or under the control of the Government. The landed estates of the inhabitants of villages were surveyed and set down in registers which were kept at the palace, or in temples for inspection in case of dispute. The extent of individual holdings was set forth in great detail in the contracts with boundaries as defined by the owners

of adjacent lands, and there were imprecations against the men who removed the stones (*abnu*), or landmarks (*kudurru*) upon which were inscribed the boundaries and extent. (*C.f.* Manu's rules regarding boundary disputes in Ch. 8 & 9). Individual property was jealously kept in the family as far as possible and no lands could be sold without the consent of the various members of the family and the leading inhabitants of the village. In Babylonia and Assyria, all business was done by deeds or bonds executed before witnesses, not only between strangers and kinsfolk but even between members of the same family, and if a man purchased anything, or received anything, on deposit without witnesses or contract, he was considered a thief. (*C.f.* Manu's rules *re*-documents and witnesses in Ch. 8 & 9). Common lands unoccupied by private individuals were the property of the King who entrusted them to his officials, in return for which they were expected to cultivate them and perform some personal services. These officials were the gangers, constables and tax-gatherers. They cannot sell the lands entrusted to them for cultivation, nor can they transfer them to their wives or daughters, or mortgage them to anybody else. They were practically service inams that could be enjoyed only so long as the services were performed.

Lands were rented out for cultivation for a fixed rent as specified in the contract, or the tenant undertook to give the owner a certain proportion of the yield. Neglect on the part of the cultivator or tenant to cultivate the lands entailed payment of compensation to the owner. A tenant may even sublet the lands to another, but should on no account allow the lands to lie waste by neglect. At harvest times, the tenant takes his share as arranged in the contract, which ranges from a third

to a tenth, and mention is also made in the contract of "a tithe for the palace." This shows that the share of revenue due to the king was only one-tenth of the produce. The land laws of Hammurabi generally erred, if at all, on the side of leniency towards the cultivator.

As in India so also in Babylonia, irrigation formed an important factor of agricultural operations and the Babylonians paid the greatest attention to it. As Babylonia was intersected by numerous canals branching from the Euphrates, they were cleared out and repaired from year to year. The responsibility for their maintenance, however, rested with the people who owned lands along the banks, in return for which they enjoyed the rights of fishery. The water was conveyed to the fields in trenches and any man who opened his runnel and allowed the water to inundate his neighbour's field, should reimburse his loss. Theft of a man's watering wheel and bucket was considered a serious offence and severely punished (*c.f.* Manu Ch. 8).

The first and the most essential principle of the law of property in Babylonia was the equal division of the father's property among the sons. At the death of the father, the sons shared the estate equally. The inheritance and partition were generally supported by testament, but where there were no testamentary documents, the father doubtless made known his wishes before his death in some recognised oral manner, probably in the presence of witnesses. The actual division of the inheritance was made by priests, or by the eldest son, and a contract was drawn up to certify that the division was made to the satisfaction of all concerned. The household

goods were also divided equally among the sons (*c.f.* Manu's Laws of inheritance and partition in Ch. 9, 10 & 11).

The man whose wife is childless, may adopt children both for inheritance of property as well as for apprentice-ship in professions. An adoption once made cannot be repudiated.

Money matters in Babylonia were regulated with greatest precision. The money lenders were frequently priests, or more especially priestesses, who used the temple revenues. As coin was scarce, both principal and interest were often paid in kind. The rate of interest varied considerably, sometimes rising up to 20 per cent. per annum. The laws relating to debts were marked by a conspicuous humanity towards the debtor. No man can take forcible possession of a debtor's property, but he can hold it as security and may even remain in possession of it according to contract. (*C.f.* Manu's Laws *re* debts and interest Ch. 8).

Deposits should be made before witnesses and se-cured by a contract and any failure to perform the tran-saction in the prescribed manner rendered it null and void, and in case of dispute, there was no legal redress. (*C.f.* Manu's Laws *re* deposits Ch. 8).

In several other matters, the provisions of the two codes are analogous, such as, receiving stolen property, misappropriation by agents and carriers, the responsibili-ties of boatmen engaged for hire, damages done by cattle trespass, disputes between owners of cattle and herdsmen, wages for agricultural labourers and artizans, theft, assault and so forth, but the above is sufficient to establish beyond doubt the structural identity, the cultural affinity

and the chronological proximity of King Hammurabi's Code and the Code of Manu.

THE HATTIC CODE OF CAPPADOCIA.

The Cappadocian Hatti also possessed a similar code of laws, in regard to which the Editors of the Cambridge Ancient History observe:—

"According to the published translations of a Hattic Code of the thirteenth century, some Cappadocian king lifted social laws wholesale from Babylon. So wholesale, indeed, is this borrowing that it would be rash to assume that the actual level of social organization in Cappadocia was at that time, at all on a par, with that code's provisions."[1] As this code is said to be a wholesale copy of Hammurabi's code, it is unnecessary to review it here separately.

THE ASSYRIAN CODE.

The later Assyrian Empire had also its own code of laws which are written in three large tablets. "The largest and the most important of these tablets contains sixty paragraphs all dealing with women. Another in a bad state of preparation contains thirty-one laws relating to land. The third tablet, of which whole paragraphs are lost, once consisted of a series of laws dealing with breach of confidence. . . The interesting question arises as to whether this Assyrian Code was first promulgated in the thirteenth century, or whether it is derived from a still earlier code. All analogy would lead to the supposition that this thirteenth century code was copied"

1 Cam. Anc. Hist Vol. III, pp. 153, 154.

"from the laws already in existence, just as the Hammurabi Code was copied from Sumerian and Akkadian Laws long current in Babylonia."[1] But portions of the Assyrian code give predominence to the religious element just as the Code of Manu does. "The prohibitory clauses in the Sargonid documents represent an earlier stage in the development of law than the thirteenth century. The penalties mentioned in them are all of a religious character and so date from a time when the sanction of law was derived from religious belief, whereas that stage had been outgrown even in Hammurabi's time when crime was punished as a civil offence."[2] It follows therefore that the Assyrian Code is in fact much older than Hammurabi's Code.

As in Babylon, the people of Assyria were also divided into three classes viz., the *'Mar banuti"* or the patricians, the *'Ummane'* or the craftsmen, and the *'Khubshi'* or the proletariat. The *'Mar banuti'* corresponded to the Kshatriya class from which the kings selected their governors, chief priests and generals. They enjoyed special privileges which were effectively maintained throughout the Assyrian period. The bulk of the Assyrian people belonged to the second class of 'Ummane' which included all who practised professions, such as, the banker (*tamkaru*), the scribe (*tupsheru*), the potter (*pakharu*), the carpenter (*naggaru*) and the travelling traders (*sukharu*). Separate quarters were provided in towns for the different professions and each trade had a guild organization which served several purposes. 'The chief of ten', 'the chief of fifty' and 'the chief of Kisir'

1 Camb. Anc. Hist. Vol. III, pp. 104, 105.
2 Ibid p. 108.

supervised the persons under their control and regularly collected the taxes due to the state. The majority of the 'Ummane' paid their taxes in kind. Commerce was diligently conducted by the people and carefully fostered by the kings. The travelling traders who generally agreed to pay 25 per cent. interest, realized considerable profits on their undertakings, notwithstanding the high rate of interest paid on their capital outlay. The professional classes were mainly hereditary, but they also absorbed members from other classes by the system of adoption for apprenticeship. The position of the lowest classes, the Khubshi, is not definitely known, but they appear to have possessed rights which served to alleviate their extreme poverty, and their condition on the whole compared favourably with those of the lower classes in any ancient state. The most interesting laws are those concerning women. Almost all the law-givers of ancient times prescribed elaborate regulations for the conduct of women in society. The Assyrian Code, just like the Code of Manu, contains stringent provisions for dealing with slander, adultery, abortion, voluntary desertion by the wife, calumny of wife by false witnesses, divorce, maintenance, the period for which a wife should wait for the return of her husband who had gone abroad, bridal gifts, marriage of a girl, whose betrothed husband had died before marriage, with the brother of the deceased and so forth. They are all almost identical with the provisions in the Code of Manu.

SUMERIAN ORIGIN OF THE CODE OF MANU.

It is needless any further to multiply the points of resemblance between the several codes, as even a casual

reader of Manu's Code can now easily notice them. The similarity lies not so much in the language or structure of the codes, as in the identities of the social, political and business aspects of human life prevalent in the countries governed by them. Too much importance cannot, of course, be attached to the severity of the punishments inflicted on delinquents, as all ancient codes in all countries adopted similar barbarous punishments for crimes and misdemeanour. But in comparing such ancient codes, we are often tempted to assume, where we see too close a resemblance, that one was copied from the other without regard to the fact where one nation ended, and the other began, its race of life, or what time had elapsed between the adoption of the original in one country and of the copy in the other. Where we have two analogous codes, such as Hammurabi's Code and Manu's Code, of which the former is now proved to have been drawn up in the 21st century B.C. and the latter is believed to have come into existence somewhere about the 5th century B.C., it would be absurd to assume that the latter was copied from the former sixteen centuries later, or that a whole country moved so many centuries backwards to copy the primitive laws of the other country. The identity of the religious element in the Assyrian Code and the Code of Manu takes them to a far remote period when "the sanction of law was derived from religious belief," while the uniformity of the civil element in all the four codes clearly indicates that the countries governed by them were more or less near the same milestone in their national evolution. Banking, usury, contracts, agreements, trade and commerce were all conducted in India on the same lines as in Babylonia and Assyria with the documents of title relating to *labha*, *bhukti*, *bhoga*,

kraya, samvid, vyavahara, karmayoga, pratigrah and *daya,* bearing close analogy to the contract tablets of Hammurabi's age. The trading classes in all these countries had established equally high reputation for their skill, craftsmanship and business-like organization, and they very often exchanged not only their products but also their knowledge and experience. The laws relating to the control of women, and the social organization with its caste and clannish affinities show that the Indo-Aryans of Manu's Aryavarta still continued to be members of the same confederacy of nations then inhabiting Central Asia and that they were all moving in the same plane in close proximity to each other in point of time and within the same sphere of influence. The codes themselves bear marks of identity, proximity and common origin and certainly appear to be only different recensions from the same Sumerian and Akkadian laws of Central Asia.

CHAPTER III.

SECTION (ii).—THE AUTHORSHIP AND ANTIQUITY OF THE CODE OF MANU.

The Indo-Sumerian Seals deciphered.—There has always been some inexplicable mystery about the authorship of the Code of Manu, a mystery which does not appear to be quite consistent with its antiquity, sanctity and authority. While Menes, Solon, Lycurgus, Solomon, Justinian and other ancient law-givers have left their names written in golden ink, it seems somewhat strange that the real author of Manu's Code should be allowed so long to shine in anonymity. It is commonly believed that the original Code containing 4000 verses was compiled by a nameless person 'Bhrigu' and that the present Code containing 2685 verses was abridged from it by a 'Bhrigu's son' who is occasionally referred to with great hesitation as one, named Sumati. Who is that 'Bhrigu' that compiled the original Code? Who is the 'Bhrigu's son' that abridged it to its present form? When did the latter flourish? What was the occasion for the promulgation of the code?

And under whose auspices or under what circumstances was it prepared? The answers to these queries are furnished by the Mahabharata, the Aitareya Brahmana and the Indo-Sumerian Seals deciphered by Dr. Waddell who, after twenty years of laborious research, now announces his discoveries with the following preamble:—"About the many Vedic priests and kings whose historic personalities and in part bodily relics, seals and jewellery are thus recovered and identified, are 'Ausija' (Kakshivan), Kanwa, possibly Goutama Rishi himself, and certainly the Slave girl '*Usij*', the reputed consort of the latter in the Epic romance. Among the Kings whose historic identities, dates and monuments are now recovered are—Haryaswa with his father and grandfather and his descendants of the Panchala or Phœnician dynasty, including specially Mudgala with his Indus Valley seal and famous stone maces(?), Badhryswa and Diva Daso, the Emperor Sakuni or Sagara, the priest-kings Gadhi, Jamadhagni, Sushena and the truculent Parasurama. . . . They disclose the actual official signets and grave amulets of several of the most Vedic seers and authors of Vedic hymns and of ancient kings and heroes whose very existence even is denied by European Sanskrit scholars, with the actual tombs of many of them containing their sacred dust. And with these are recovered for the first time the actual dates and reigns in which they lived four to five thousand years ago. We also recover through their identifications the authentic portraits of many of them from their contemporary seals and monuments portraying their features and dress. All educated Hindus (will be glad to know) the first hand scientific proofs for the veracity of their Vedas and ancient Epics (the Puranas) and to learn that their ancestral"

"Vedic kings and sages were famous historical emperors, kings and priest-kings in Mesopotamia with multitudinous monuments, still existing there to the present day. It must also be gratifying to the modern Hindus to find that the Vedic and Epic traditions which their ancestors preserved and handed down through the centuries and in which they have steadfastly believed, is now proved substantially true and has become a chief means of identifying as Aryans, the Sumerians, the Phœnicians and the Britons. Besides, it is now proved that the ancient Vedic sages and kings and people wrote and spoke in the Sumerian tongue, a language which is now disclosed to be the parent of Aryan speech, the present Sanskrit, Hindi, Maharathi, Bengali and other Aryan dialects of India as well as of Europe and especially of the British or 'English.'"[1] So long as we admit the theory that the Indo-Aryans came to India from the North-west, it seems pretty certain that they owed the knowledge *of their past* to the traditions prevalent in their original abode in and around Mesopotamia and that their culture and civilization were essentially Sumerian in origin.

Authorship and date of the Code of Manu.— Seal No. V deciphered by Dr. Waddell is the official signet of King Sushena, otherwise called Kausika, who reigned in 2350 B.C. He is the son of Jamadhagni Bhrigu and the elder brother of Parasurama, the famous crusader against the Kshatriyas. Seal No. XI is the seal of Ghalava Rishi Bhrigu who was the close associate of Parasurama in all his expeditions against the Kshatriyas and who was also his family priest. From these and

1 Wad., Indo-Sumer., Preface pp. xii—xiv.

other Seals Dr. Waddell traces the geneology of Parasurama as follows: King Gadhi, whom he identifies as King Gudea of Lagash (2450 B.C.) was the father of Viswamithra and Satyavati. The memories of this son and daughter are said to be still preserved in the ancient history of Mesopotamia through tablets and inscriptions discovered in that country. The daughter, Satyavati, married a priest-king, named Richika, who was succeeded by his son, Jamadhagni Bhrigu who left behind him four sons Sushena, Vasu, Vasudeva, and Parasurama, the youngest. Dr. Waddell identifies King Sushena as Prince Sussain, and Parasurama as Prince Bura-Sin of the Ur. Dynasty of Lagash who then ruled over the Sumerian colony in the Indus Valley. Just about the time of Jamadhagni Bhrigu, a Brahmin fraternity was formed in India with Vasishta as it's head assisted by the priest-kings, and a fierce contest ensued between him and Viswamitra, the Kshatriya Rishi, as to the superiority of the new Brahminical order, in which Viswamitra was compelled to perform severe austerities and penances to elevate himself to the status of a Brahma Rishi and be accepted as such by Vasishta. The hatred between the Kshatriya class and the new Brahminical order of priests became so deep-rooted that it needed only a spark to set the fire ablaze. The forcible carrying away by Viswamitra of King Jamadhagni's perennial cow, 'Nandini' at once furnished the occasion for an open war between the two classes, in which Parasurama swore that he would extirpate the Kshatriyas altogether. He accordingly cleared the earth of that much-hated Kshatriya caste and established the Brahmin ascendancy once for all. In the Mahabharata-Adi Parva-Ch. LXIV—Vysampayana says with special reference to this extirpation of the Kshatriya

male population by Parasurama:—"When the earth was thus bereft of Kshatriyas, the Kshatriya women used to come to the Brahmanas for offspring. Thus sprang the Kshatriya race (again) from Kshatriya women. The new generation blessed with long life began to thrive in virtue and *thus were again established the four castes having Brahmanas at their head.*"[1] The italics are ours. This was how the Brahmin caste which was not mentioned as a caste in the Rig Veda, nor found in the pre-Indian stages of the Aryan immigration, was for the first time legalised as a permanent institution in the Indian social organization. In the frequent conflicts between the two classes, most of the lower orders, particularly the male population, took sides with either class and perished in the so-called twenty-one crusades. Consequently, the members of the higher castes were then allowed to take additional wives from the lower orders and to beget the numerous legitimate, illegitimate and subsidiary sons, and sons begotten on widows by appointed husbands and on appointed daughters enumerated in Chapter X of the Code of Manu. But for the subordination of the military power to the civil power of the land and the introduction of a new order of social rank between the Brahmins and the Kshatriyas, the reformed caste system in no way prejudicially affected the position of the Vaisyas and Sudras who, on the other hand, enjoyed greater privileges and freedom of action than they did in the Sumerian land. The New Dispensation, however, could not be brought into effect all in one day, or by one edict, as it was no ordinary task to keep together a new social order which contained within

1 Dutt. Maha. Bhar. Vol. I, p. 88.

itself all the latent forces of a possible rebellion and to consolidate it as an inviolable institution. It certainly needed the dynamic force of a strong ruler and the fanatical zeal and tenacity of a religious enthusiast to compel a whole nation to accept it as a national institution, whether they liked it or not. And who else could that person be than the super-sensitive, super-cilious and super-erogatory Parasurama? Having extirpated the Kshatriya race, he at once hastened to the cool heights of Mount Mahendra where he forged his anvil and shaped his weapon 'the Code of Manu' to serve the needs of this country effectively for all time to come. The Mahabharata itself refers to Parasurama as the founder of the caste system in India and as the 'Bhrigu's son'[1] by which name the author of the present Code of Manu has always been described. The following extracts from the Aitareya Brahmana[2] will also confirm the above theory.

"(Rama said).[3] I know it from the fact that Indra had been excluded by the gods (from having any share in the sacrifices); for he had scorned *Visvarupa*, the son of *Tavastri*, cast down *Vritra* (and killed him), thrown pious men (*yatis*) before the jackals (or wolves) and killed *Arurmaghas* and rebuked his teacher, Brahaspati. On account of these faults, Indra was forthwith excluded from participation in the Soma beverage. And after Indra had been excluded in this way from the Soma, all the Kshatriyas (at whose head he is) were likewise excluded from it. But he was allowed a share in it"

1 Dutt. Maha. Bhar., Santi Parva, Ch. III, p. 9.
2 Haug. Ait Brah. pp. 484—486.
3 This refers to Parasurama—There was no other Rama that meddled with the caste system.

"afterwards, having stolen the Soma from *Tavastri.* But the Kshatriya race remains excluded from the Soma beverage even to this day."[1]

* * * * * *

"Thy progeny will be distinguished by the characteristics of the Brahmanas; for they will be ready to take gifts, thirsty after drinking (Soma) and hungry of eating food and ready to roam about everywhere according to their pleasure."

* * * * * *

"Thy progeny will be born with the characteristics of the Vaisyas, paying taxes to another King, to be enjoyed by another."

* * * * * *

"Thy progeny will have the characteristics of the Sudras; they are to serve another (the three higher castes)."

Such, in brief, were the circumstances under which Parasurama reconstructed the Hindu Society not long after the civil wars between the Indo-Aryans and the followers of Ahura-Mazda outside India, but immediately following the conflicts between the priests and the Kshatriyas in India; but the open hatred which he bore towards the Kshatriyas obviously induced the Brahmins to suppress his authorship and mention him only as 'Bhrigu's son' under the pseudonym of Sumati.

'Bhrigu', however, was not the proper name of any particular individual, but was a priestly title assumed by

1 This extract refers to the conflict between Indra and Tavastri, the long enmity between the war-like Kshatriyas and the priests addicted to Soma beverage and the final degradation of the Kshatriya race.

some of the Rishis and priest-Kings. From the several Sumerian seals deciphered by Dr. Waddell it is seen that there were only two historical Bhrigus nearest to the period of King Hammurabi, viz., Jamadhagni Bhrigu and Ghalava Rishi Bhrigu, both of whom took a prominent part in the wars against the Kshatriyas. Judged by historical affinities and relationship, it does not seem unreasonable to suppose that Jamadhagni Bhrigu was the author of the original code said to contain 4000 verses. As Parasurama, the author of the abridged code, immediately succeeded Sushena (2350 B.C.) he should have compiled his abridgement in about 2300 B.C.

The Code of Manu not Post-Buddhistic.—This long antiquity is also supported by the internal evidence furnished by the Code of Manu. Its primitive character can be gleaned from the following special features which show that the people for whom the Code was intended to provide laws, were not yet far removed from their conditions of life in the Vedic period, nor from their original environments.

Firstly: One of the most barbarous practices recognized among most of the Asiatic races in primitive times was the practice of women begetting children even by incest with their brothers and cousins. It was prevalent in ancient Egypt, Babylonia and Assyria, but was abolished only after the numerical proportion between the sexes and the necessary distance of consanguinity had become clearly established. Manu, while specifically condemning this practice, as King Hammurabi did in Babylon, allowed brothers and sapindas to beget sons on predeceased brothers' brides or widows[1], a custom which

1 Manu III, 160—173, IX, 57—68, 120—121, 143 & 147.

points to the survival of the most primitive notions of sexual relationship.

Secondly: Bhrigu's Code was evidently compiled at a time when the southern movement of the Indo-Aryans below the Vindhya mountains had not yet commenced. His geography is confined to the Aryavarta, and the Dravidians and Andhras are mentioned only by way of exclusion.

Thirdly: There is no allusion at all in the Code to the two Epics, or to Rama and Krishna as avatars, or to the worship of the Trinity, or to the practice of congregational worship in temples. The Indo-Aryans were still offering sacrifices to the forces of nature and sradhas to their departed manes in their household. The philosophical systems of Sankya, Yoga, Niyaya, Vaiseshta and Mimamsa were yet entirely unknown to them, nor were they acquainted with the tenets of Buddhism. The heretics and athiests referred to were obviously the followers of Zendavesta who repudiated the authority of the Vedas and the sanctity of the sacrifices.

One more point requires special notice here. In his Introduction to the translation of the Kautilya Arthasastra, Dr. Shama Sastry, for whose scholarly research and erudition we have the highest respect, observes that the Code of Manu should have been compiled long after this Arthasastra of 320 B.C. and points out "What still more strikingly proves the priority of the Arthasastra to the Smrithis of Manu and Yagnavalkya, as now extant, is the marked difference between the states of societies presented in them. The state of society portrayed in the Arthasastra is in the main pre-Buddhistic, though Kautilya wrote long after the time of Buddha, while the"

"Smrithis depict the ideal of Hindu Society as reconstructed and reformed consequent on its struggle for existence against the all victorious, but just then decadent Buddhism."[1] It is, no doubt, true that the Code of Manu points to a state of society "reconstructed and reformed" after some severe struggle, but the question is when that struggle took place and when the society was reconstructed. The answer to this question is furnished by the Mahabharata itself, where it is clearly stated that the Hindu society was reconstructed by Parasurama after a severe struggle for existence against the all victorious, but just then decadent Kshatriyas[2], at the head of the post-Vedic period. The Hindu society was never reconstructed or reformed on any large scale after Kautilya's period, so as to affect the general scheme of Manu's Smrithi, or any other Smrithi. On the contrary, the Code of Manu was the immediate and effective weapon forged to pull together the several discordant elements of a society newly reconstructed by Parasurama in about 2300 B.C.

Indo-Sumerian Seals and Epic Actors.—The Indo-Sumerian Seals also disclose that some of the important actors of the Mahabharata and the Ramayana were real historical personages moving about on the Indian stage between 2300 B.C. and 2200 B.C., some of them being contemporaneous with each other. The Mahabharata itself clearly shows that the idea of the incarnation of Vishnu originated only after the extirpation of the Kshatriyas by Parasurama. Soon after such extirpation, the country was invaded by Asuras, probably the Assyrian

1 Kaut. Arth. Intro. pp. xvii & xviii.
2 Dutt. Maha. Bhar., Vol. I, p. 88 already quoted.

Kshatriyas, and it was then at the request of Goddess Earth that *Brahma* commanded all the celestials to take their birth on earth to free her from her burden. The celestials under the head of Indra went to Narayana and prayed to him "Be incarnate" and Hari replied "Be it so."[1] Quite apart from mythology, the story is mentioned simply to show that the idea of the incarnation of Vishnu, as Rama and Krishna, arose only after the compilation of the Code of Manu.

1 Dutt. Maha. Bhar., Adi Parva, Ch. LXIV, pp. 89 & 90.

CHAPTER IV.

THE CODE OF MANU, 2300 B.C.

SECTION (i).—MONARCHY AND ITS PREROGATIVES.

Growth of the Idea of Monarchy.—It has been already pointed out in Chapter II that the idea of monarchy was not indigenous to India, but that the Aryas had developed the monarchical form of government even in their pre-Indian stages in Central Asia. When they invaded India *en masse*, they rushed in successive waves of migratory bodies in all directions and, with considerable alacrity, settled themselves down in local areas, organised themselves into tribes and carved out kingdoms for each tribe. The conflicts between the several tribes of Aryas and between the Aryas and the Dasyus necessitated, at the outset, the formation of a protective agency not only to guard the life, liberty and property of the people, but also to defend their entire tribal domains

against attacks from outside. The people, therefore, out of necessity began to look upon their chiefs as

"Our Lord, the sure
Protector of the friendless poor,
In whom the wretched and the weak
Defence and aid were wont to seek."[1]

The chiefs were also taught to regard protection not merely as a duty, but as a debt which they owed to the people.

"Beloved children, never forget
Protection is a Prince's debt."

By a process of hero worship imposed upon the people as a virtue of necessity, the tribal chiefs gradually assumed regal dignity and authority and installed themselves as Kings amidst consecration ceremonies and throning rites.

"The Majesty and Royal State
Which holy Brahmins venerate,
The consecration and the rite
Which sanctifies the ruler's might,
And all imperial powers should be
Thine by thy father's decree."

Again:

"Be thou, the joyous people cried,
Be thou, our guardian, lord and guide,
Throned and annointed King to-day."

1 The Ramayana clearly traces the evolution of the monarchical idea. The poetical quotations are taken from Mr. Griffith's metrical translation of the Ramayana.

Again:

These urns which stand prepared to shed
King-making drops upon thy head,
Shall, with pure lustrations now,
Inaugurate my hermit's vow."

Having thus clothed themselves with regal pomp and authority and established themselves as guardian, lord and guide of the people, the Kings began to succeed by birth right and to rule by sovereign rights.

"Men in the son not only trace,
The father's figure, form and face,
But in his heart they also find
The offspring of the father's mind."

Again:

"Kings, when their Sires have passed away,
Succeed by birth right to the sway."

The last step in the growth of the idea of monarchy was the adoption of the law of primogeniture to regulate succession in the line of Kings.

"The eldest son is ever King,
So rules the house from which we spring."

Again:

"Still, should the custom be observed,
From which our line has never swerved,
Which, to the younger son, never gives
The Kingdom, while the elder lives."

The Divine right of Kings.—The monarchical idea has thus evolved from the earliest conception of the ordinary protector of the people to that of the Divine King

with the halo of sanctity round his crown and the rod of punishment in his hand. For the first time, Manu introduces his Divine King in the following grandiloquent and awe-inspiring manner:—

> "Because a King has been formed of particles of those lords of the Gods, he, therefore, surpasses all created beings in lustre."
>
> "And like the Sun he burns eyes and hearts, Nor can anybody on earth even gaze on him."
>
> "Through his (supernatural) power, he is Fire and Wind, he Sun and Moon, he the Lord of Justice (Yama), he Kubera, he Varuna, he great Indra."
>
> "Even an infant King must not be despised (from an idea) that he is a (mere) mortal; for he is a great deity in human form."[1]

Like so many other conceptions and institutions, this idea of the divine right also finds parallel in the Egyptian literature in which the God 'Samaṣh' is used to represent the Sun-God and with him is identified the King. The Egyptian King is often referred to as 'My Samash, My God and My Gods'—'My Lord, My God, My Sun, the Sun of Heaven'—'the Son of Samash whom Samash loves'—'My Gods, My Sun-Gods and My Breath' and so on.[2] It was the Sun-God that revealed the Babylonian laws to King Hammurabi in a truly divine manner. The divine right of Kings was thus a common idea among all the three most ancient nations, the Indo-Aryans, the Babylonians, and the Egyptians.

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1 Manu VII, 5—8.
2 Camb. Anc. His. Vol. II, p. 341.

But with the advance of material civilization and the consequent loss of faith in the religious sanction of law, this divine right has also lost its hold on the minds of the people. In fact the author of Sukra Niti, a comparatively modern code of laws, has demolished this theory and has even taken away their birthright from Kings. He says:

"It is not birth that makes the King. He is not respected so much because of his ancestry as for his prowess, strength and valour."

"The Ruler has been made by Brahma a servant of the people, getting his revenue as remuneration. His sovereignty, however, is only for protection."[1]

He also robs the King of his proprietary right in the soil and vests it with the owners of lands. In several respects the author of Sukra Niti shows a strong leaning towards the west coast polity and system of land administration.

The Proprietary right in the Soil.—The question of the King's proprietary right in the soil has often been discussed at length from the stand-point of modern theories of law and political economy and various theories have been advanced by the advocates of the several systems opposed to each other.

Some persons maintain that the sovereign is the absolute proprietor of the soil and that the cultivator is compelled by law to pay whatever may be demanded of him. A second class admits that notwithstanding the proprietary right in the soil possessed by the

1 Suk. Niti I, 363—364, 375.

sovereign, the cultivator has certain privileges, such as those of always occupying the same field, of transferring that right to his children and, if need be, of selling the right of occupancy. These persons agree also that so long as the landholder continues to pay to the sovereign the assessment fixed on his land, he can by no means be deprived of it. Nevertheless these same persons deny the right in the soil to belong to the landholder. Thus though the sovereign can neither eject a tenant, nor appropriate his land to his own use, he is described as the sole proprietor of the soil. A third class asserts that the land neither is, nor ever was, the property of the crown; that the whole was originally divided into townships, of which a few members undertook to cultivate the land as proprietors and that for the sake of the protection afforded by the Government, the cultivators were required to pay a portion of the produce. This portion has not at all times been uniform; for though at a remote period legislators had fixed the amount, yet it has varied in different ages and under different circumstances. The last class advocating the cause of the cultivators against the pretensions of the sovereign, deny to the latter even the privilege of alienating the waste and common lands of the villages without the consent of the permanent landed proprietors. Such are the conflicting theories advanced in connection with the King's proprietary right in the soil, but the one question which arises out of them all is whether the King is entitled only to *revenue* as the price for protection, or whether he is entitled to *rent* as proprietor of the soil. A very eminent lawyer has stated that "by the English law no subject can hold land in direct or allodial dominion."[1] In other

1 Burton on Real Property. Section i. Chapter vi cal. 65 (*a*).

words, the owner of the land must pay homage to the sovereign or his representative, either by the actual or implied performance of some personal service, or by the payment of a portion of the produce. But in England the land tenures belong to the Feudal system and their analogy cannot apply to the conditions of the Ryotwary lands in India. Whatever that distinction may be, the fact remains that all lands should pay a portion of the produce to the sovereign, and the only question for decision is whether the sovereign should claim that share as proprietor of the soil (i.e., as rent), or as protector of the people (i.e., as revenue). But as a shrewd law-giver, Manu combined both the elements of revenue and rent in his King's share. In regard to hidden treasures found in land, Manu says:

> "Of old hoards and precious minerals in the earth, the "King is entitled to half, by reason of his general "protection, and because he is the lord paramount "of the soil."[1]

And the commentator Medhatithi adds:—

"He is the lord of the soil (bhumi); it is just that a share should be given to him of that which is found in the soil belonging to him."

Thus the King's share, whether in respect of hidden treasures or cultivated produce, combines in itself both the elements of revenue (fee for protection) and rent (proprietor's share of the produce), the claim in both the cases taking the form of a lump share of the produce, or products, or profits. In the later Samhitas and treatises, however, 'the proprietary right' has been regarded as

1 Manu VIII, 39.

identical with 'property right.' According to Vyavasta Chandrika, "proprietary right in a thing consists in the capability of its being alienated at will by its acquirer."[1]

The acquisition of such a right produces both ownership (*Swamya*) and property or proprietary right (*Swatwa*).[2] Mere possession by usurpation or otherwise can enable any man to perform the act of alienation at will, but this is not sufficient; the thing itself should be capable of being alienated by him at will.[3] He should possess the rights of *'Swatwa'* and *'Swamya'*, which are both of the same quality, the only difference being that the relation which a thing bears to its owner is called *'Swatwa'* and that which an owner bears to his property is called *'Swamya'*. These rights include the right of ownership in the things lying beneath the surface of the soil. The prerogative of the crown comes in only when an owner dies without lawful heirs and when his property reverts to the King by escheat.[4] But in all these treatises the rights of 'Swatwa' and 'Swamya' are discussed only in relation to the other rights acquired by individual owners as against each other, such as the rights of possession or custody, the right of trusteeship and so on, but they have no direct bearing upon the prerogative of the crown as paramount lord of the soil. According to Manu, the King is the original and ultimate owner of all lands in respect of which the people have acquired property rights and the direct owner of all ownerless lands. His original right arises from his acquisition of the country by seizure and conquest, which is one of the

1 Vya. Chand. Book I, Sec. (i) cl. 51.
2 Ibid, cl. (4).
3 Smrithi Chandrika I, cl. 25.
4 Vya. Chand. VII, cl. 173 to 175.

lawful methods of acquisition of property allowed to a Kshatriya, while his ultimate ownership consists in his reversionary right to the property of all private owners who die without lawful heirs. Subject to these rights of overlordship, the people can acquire the rights of 'Swamya' and 'Swatwa' as amongst themselves by any of the seven lawful methods, viz., (1) Inheritance, (2) Finding or friendly donation, (3) Purchase, (4) Conquest or Seizure, (5) Lending at interest, (6) the performance of work, and (7) the acceptance of gifts from various persons.[1] Such acquisitions are always subject to the King's overlordship of the soil and his rights as protector of the people.

If according to the refined notions and distinctions of political economists the elements of revenue and rent are to be kept distinctly apart from each other, it follows that where a King levies only a revenue from land, he is theoretically entitled to levy a rent in addition and *vice versa,* inasmuch as he combines in himself the separate functions of a protector as well as a proprietor; and in either case he would be entitled to raise his share according to his needs. But a little too fond adherence to the abstract principles of political economy will often land both the people and the Government into trouble in the practical administration of the country. Every Government representing the interests of the people at large must exercise a certain amount of interference in affairs connected with land and whether this is called executive administration, or exercise of proprietary right is not of much importance. According to Manu, the proprietary

1 Manu X, 115.

right in the soil always vests with the King by right of his conquest or seizure of the country; but where he deals with the ryots direct, or makes a grant of his proprietary right in the soil to a farmer of revenue, the King takes his share only as revenue, but allows both the ryots and the farmers of revenue to levy a rent from their own tenants, as an income which the owner of a private property receives for letting it out to an *entrepreneur* and which accrues to him after the application of labour. This rent which partakes essentially of the nature of an income should naturally be always higher than what is called 'revenue.'

CHAPTER IV.

CODE OF MANU (2300 B.C.).

SECTION (ii).—THE STATE ADMINISTRATION AND RURAL POLITY.

The Machinery of Government.—Manu's divine King always held the rod of punishment in his hands like Yama himself; because "punishment alone governs all created beings; punishment alone protects them; punishment watches over them while they sleep and punishment is identical with law."[1] "The whole world is kept in order by punishment, for a guiltless man is hard to find; through fear of punishment, the whole world yields the enjoyment which it owes."[2] This awe-inspiring despot was surrounded in audience by seven or eight ministers whose ancestors had been royal servants descended from noble families and who were themselves strong, skilful and learned in all the sciences and laws and in the arts of protection and government.[3] The ministers were men whose loyalty, fidelity, ability and honesty had been put to test by spies in various ways, and were entrusted

1 Manu VII, 18. 2 Ibid 22.
3 Ibid 54.

with businesses relating to war and peace (military), protection (law and order), gains (trade and commerce), administration (civil and revenue), *sthana* (treasury and finance), pious gifts (Inams and endowments).[1] The King consulted his cabinet both jointly and severally, but did what was most beneficial to him according to his own judgment. He parcelled out his kingdom into several provinces, each consisting of about a thousand villages and placed high and trusted officials in charge of each province, who were assisted by intelligent supervisors and subordinate officials to manage the various branches of business. A company of soldiers commanded by a trusty official was placed in the midst of two, three or five hundreds of villages for the protection of the kingdom. The lowest administrative official was the time-honoured Headman of a village, and above him there were heads of ten, twenty, hundred and a thousand villages, corresponding to the modern Revenue Inspectors, Tahsildars and Collectors, or Naib Subas, Subas or Mahalkaris and Mamlatdars, or again to Visyapatis, Rashtrapatis or Rajasthanyas of the inscriptions. The officials had service Inams or emoluments attached to their offices. The Headman of the village received as much food, drink and fuel as the villagers had to furnish the king daily; the ruler of ten villages obtained one 'Kula' of land, i.e., as much land as would suffice for one family,—it is double of what is called 'a middling plough' which is as much as can be cultivated with twelve oxen—; the head of twenty villages received five such Kulas; the Superintendent of a hundred villages received the revenues of one village and the Lord of a thousand the

1 Manu VII, 54.

revenues of a town. Of these, the remuneration for the Village Headman alone was comparatively poor, and this probably accounts for his time-honoured practice of putting his hands into other men's pockets with the tacit connivance of all Government's, ancient and modern!

Village Corporations.—In this scheme of polity, Dr. Burnell traces some vague references to village communities. He translates verse 219 of Chapter VIII as follows:—"If a man has sworn to observe the compact of a corporation in a village, or in a district, and then through avarice does not hold to his compact, the king should banish him from the realm", and adds a note that the corporation mentioned here refers to the "inhabitants of a village who are embraced in a village community as one corporation."[1] This has naturally led to the inference that the villagers enjoyed their lands also *as one Corporation,* while, as a matter of fact, there is no trace at all here of the communistic idea of property. The exact nature of the so-called corporations is clearly explained in verse 41 of the same Chapter which runs thus:—"A King who knows the sacred law, must enquire into the laws of castes, of districts, of guilds and families and thus settle the peculiar law of each."[2] According to Bühler 'castes' refer to Brahmanas and so forth; 'the laws of districts' refer to laws, such as those of Kurus, Kasis, Kasmiras, or even inhabitants of one and the same village according to this classification; 'the guild' refers to those of merchants, husbandmen, actors and so forth which go by the name of 'Srenis' or 'Paripalayats.' The public bodies and associations referred to here as well as by Yagnavalkya[3]

1 Bur. Manu p. 214. 2 Manu p. 260.
3 Dutt. Yag. II, 190—195.

were merely trade guilds, caste panchayats or administrative panchayats organized to settle local disputes and to protect the caste and clannish interests of the several communities inhabiting a village. There is not a vestige of evidence to show that all the inhabitants of a village, Srotriyas, secularized Brahmins, Kshatriyas, Vaisyas following various professions and Sudras down to barbers were all embraced in a single homogeneous village community acting in a corporate capacity. Indeed, such a spectacle would have been a marvel under Parasurama's newly constructed compartments of castes!

CHAPTER IV.

CODE OF MANU (2300 B.C.).

SECTION (iii).—THE LAW OF OWNERSHIP AND PROPERTY.

Occupation and Ownership.—It is clearly outside the scope of our purpose to dive deep into the meshes of the Hindu Law of property and deal with the various forms and formalities of succession, inheritance, partition and adoption. What we are immediately concerned with is only the question whether the idea of property in land was individualistic or communistic and, if the former, what the relationship was that existed between private ownership of land and the king's paramount overlordship of the soil. First, we shall deal with the rights of private property, *Swamya* and *Swatwa,* acquired by the people as against each other. According to Manu, the most primitive, and so the most fundamental, ideas of property were:—"The field belongs to him who cleared away the timber.[1] If a man having no property in land sows his seeds on another man's soil, the latter takes the crop which may spring up.[2] If the seed is carried by

1 Manu IX. 44.
2 Ibid 49.

water or wind and germinates there, the crop belongs to the owner of the field.[1] If no agreement has been made between the owner of the field and the owner of the seed, the benefit goes to the owner of the field.[2] But if by a special contract land is made over to another for sowing, the owner of the seed and the owner of the soil are both considered as sharers of the crop.[3] The owner of the land is the perfect man that consists of his wife, his offspring and himself."[4] The ownership which thus originally arose by first occupation and reclamation, was as strong and inviolable at the time of Manu as it is now and was in no way less permanent than the rights possessed by the Babylonian ryots under King Hammurabi's land laws. Nor is this all. The idea of tenancy by contract, lease or *waram* had also developed to such a degree that negligent farming by tenants and cultivators was punishable by law. In fact, the owner, or rather the last unit of owners, with whom all Governments, ancient and modern, always negotiated, was the '*paterfamilias*' who was "the perfect man" that united in himself three persons, viz., "his wife, his offspring and himself."[5]

Methods of acquisition of property—patrimony and self-acquisition.—Manu prescribed seven virtuous means of acquiring property: (1) Succession or inheritance, (2) Finding or friendly donations or gain (*labha*), (3) Purchase or exchange—these three are allowed to all classes, (4) Lending at interest (*prayoga*), (5) Performance of work, or husbandry and commerce (*Karma-yoga*)—which belong to the mercantile classes, the Vaisya

1 Manu IX, 54.
2 Ibid 52.
3 Ibid 53.
4 Ibid 45.
5 Ibid 45.

and the Sudra, (6) Seizure or conquest, which is peculiar to the military class and (7) Acceptance of gifts from virtuous men, which is also peculiar to the Brahmin.[1] And in times of distress all men can acquire property by the ten methods of subsistence permitted by the Shastras, i.e., learning, mechanical arts, work for wages, service, rearing cattle, traffic, agriculture, contentment with little, arms and receiving interest on money.[2] Any individual who acquires property by these lawful methods acquires the right of ownership in it (*Swamyam*) and transmits it to his successors by inheritance. A slight deviation was, however, made in regard to the wealth acquired by one member of the family by his own learning. Manu first laid down a general rule that such property belonged solely to him to whom it was given,[3] but immediately added a proviso that it should have been acquired without the use of the patrimony.[4] This proviso practically nullified the general principle altogether, at any rate in some parts of India, as even the smallest assistance received, for instance, in the shape of the use of the family carriage, was sometimes regarded as using the patrimony.

The law of inheritance.—The family then begins to expand into a big corporation consisting of the father, mother, sons, daughters, grandsons, widows of deceased sons, unmarried daughters and so forth, every one of whom acquires by birth an inherent right to a share in the family estate. The father then becomes the trustee of the diverse interests arising out of the family property. The shares to which each member of this corporate family

1 Manu X, 115.
2 Ibid X, 116.
3 Ibid IX, 206.
4 Ibid 209.

is entitled are settled by the law of inheritance enunciated by Manu in the following sections:—

Modes of self-acquisition (x 115)—Succession to sons (x 104, 156, 157, 185)—Unmarried daughters (IX 118)—Appointed daughter (IX 130)—Son of appointed daughter (IX 131, 134, 136)—Husband of appointed daughter (IX 135)—Son of daughter not appointed (IX 136, 139)—Adopted Son (IX 141, 142)—Son of appointed widow or wife (IX 120, 121, 145, 146, 190, 191)—Children of Eunuchs (IX 203)—Son born after partition (IX 126)—Exclusion from inheritance (IX 143, 144, 147, 201, 214, XI 185, 186).

This law of inheritance has since formed the subject of stupendous elaboration by the commentators and the authors of the later Samhitas and constitutes the bulk of the modern Hindu law of Property.

The law of partition.—On the death of the father, the eldest son takes up the management of the family estate as trustee for himself and for the other members of the family, until a partition is forced upon the family. Partition is then made according to the principles enunciated by Manu in the following sections:—

Partition made by the father (IX. 215)—made after parents' death (IX. 104)—between brothers legitimate and of equal caste (IX. 104, 112, 119, 156, 157, 213)—between younger brother and son begotten of widow of elder (IX. 120)—between sons of younger and elder wives (IX. 122—126)—between twins (IX. 126)—between son and appointed daughter (IX. 134)—between sons of wives of different castes (IX. 148—155)—between legitimate and subsidiary sons (IX. 162—165)—

between sons by different fathers (IX. 191)—of acquisitions by brothers (IX. 204, 208, 215)—of property of reunited coparceners (IX. 210, 212).

After such partition, the family property passes into the hands of several more family units, each again consisting of a husband, wife and offspring. Thus the clubbing and fragmentation of holdings have followed each other in ceaseless succession from the earliest beginnings of landed institutions in India, always with the head of the family as the registered holder answerable to Government for the king's share of revenue.

Business transactions.—The growth of such intensely individualistic ideas of property naturally gave rise to numerous land transactions, such as, transfers by succession, sale, gift, pledged securities and so forth, which make a very near approach to Hammurabi's contract laws and banking system both in form and essence. Of the numerous topics dealt with in the Code of Manu, we shall refer here only to a few which are closely subsidiary to the growth of landed institutions and trade, viz., Debts and documents, Boundary marks and boundary disputes, Pasture ground and cattle trespass, Writing and Coinage.

Debts and documents.—A money-lender may ordinarily levy interest at one-eightieth of a hundred, or 1¼ per cent. per month. A beneficial pledge, i.e., one from which profit accrues to creditor, should not be charged any interest at all, but all unsecured loans may be charged interest at two, three, four and even five (but not more) per cent. per month according to the order of castes. Neither a pledge, nor a deposit, can be lost by lapse of

time.[1] In money transactions, interest paid at one time shall never exceed twice the principal, and when interest is charged in kind, it should not exceed five times the original loan. No rate of interest above the legal rate can be recovered in spite of any stipulation, and none should take interest beyond the year, nor such as is unapproved, nor compound interest, periodical interest, stipulated interest or corporal interest.[2] But in the case of merchants carrying on trade in distant places both by land and sea, any stipulated rate of interest above the legal rate fixed by experts may be charged on the loan.[3] A debtor, who is unable to pay the loan, may renew the agreement after paying the interest due, and if he cannot pay the interest at once, he may insert it in the renewed agreement.[4] In the case of persons of doubtful solvency or of roaming merchants, the loans may be protected by sureties.[5] Suits arising out of these transactions were decided by courts after examination of the parties and witnesses. It seems pretty certain that these loans were mostly taken for purposes of trade and agriculture, but instances do not appear to be wanting of reckless borrowing, such as, for gambling, drinking, payment of fines and taxes and fraudulent sales and contracts.[6]

Boundary marks and boundary disputes.—The boundaries of villages were first laid out and fixed by clearly distinguishing marks or trees, e.g., 'Nyagrodhas' (Ficus Indica), 'Asvathas' (Ficus Religiosa), 'Kimsukas' (Butea Frondosa), 'Salas' (Shorea Robusta),

1 Manu VIII, 140—145.
2 Ibid 151—153.
3 Ibid 154—155.
4 Ibid 154—155.
5 Ibid 160—162.
6 Ibid 159, 163, 165.

Palmyra palms, trees with milky juice—'Arka' (Calatropis Gigantea) and 'Udumbra' (Ficus Glomerata)—clustering shrubs, bamboos of different kinds, raised mounds, tanks, wells, cisterns, fountains and temples. The lands in each village were also surveyed in detail, apparently by the Khasra method of dividing fields into quadrilaterals, each field being distinguished by marks, such as stones, bones, cow's hair, bricks, cinders, pebbles and such other objects as do not corrode even after a long time.[1] Disputed boundaries between villages and between individual fields were always investigated by kings or their officials by personal inspection and enquiry of witnesses collected, in the case of village boundaries, from four neighbouring villages including hunters, fowlers, herdsmen and other foresters, and in the case of boundaries of fields, houses, gardens, wells, tanks, etc., from neighbours.[2] The settling officers should then decide the disputes in the presence of a crowd of villagers and record the boundaries in writing describing them by names.[3] Obviously, each boundary mark had a name for it and the fields lying close to it were also distinguished by names, such as, Puliyadi, Panayadi, Mungiladi, Kalikottam and so on. If the boundary could not be decided even after enquiry and inspection, the king should make good the deficiency to the claimants by assigning to them unoccupied lands available in the village.[4] He who destroyed a boundary mark was punished by mutilation.[5]

1 Manu VIII, 247—251.
2 Ibid 258—262.
3 Ibid 255.
4 Ibid 265.
5 Ibid IX, 291.

Pasture ground and cattle trespass.—On all sides of a village a space of: one hundred 'dhanus'[1] in breadth should be reserved as pasture ground and thrice the extent round a town.[2] Such pasture grounds being common to villagers are indivisible.[3] The owners of cultivated fields should protect their lands by fences "over which a camel cannot look and stop every gap through which a dog or boar can thrust his head." For damage in an enclosed field near a village or highway, the herdsman should be fined one hundred panas; in other fields, each head of cattle shall pay a fine of one pana and a quarter and the value of the crop destroyed in all cases should be made good to the owner of the field.[4] But no fine should be levied for damage done by a cow within ten days after her calving, or by bulls and cattle dedicated to temples.[5]

Writing.—Not only were the Indo-Aryans possessed of a written language outside India, but they also found, as soon as they entered India, that the Dravidians and the aborigines who were natives to the soil were already speaking and writing various languages which they were obliged to make themselves acquainted with, in order to facilitate mutual understanding and intercourse in their every day life. The Vaisyas who formed the chief trading communities, were specially enjoined to acquire a working knowledge of the languages of various men with whom they had to deal in business.[6] The numerous documents of contracts, agreements, sales, mortgages and

1 'Dhanus' literary means 'a bow's' length, or about six feet.
2 Manu VIII, 237.
3 Ibid IX, 219.
4 Ibid VIII, 238—241.
5 Ibid 242.
6 Ibid IX, 332.

so forth, the record of evidence of witnesses in trials and the issue of royal edicts prevalent at the time of the Code of Manu (2300 B.C.) clearly establish the fact that there was a written script for common usage and that, having regard to the language of the Indo-Sumerian Seals, it should have been in the same cuneiform in which the Babylonian tablets had been inscribed. In tracing the antiquity of the alphabet, a new position has been assigned to the Brahmini alphabet of India, which is well summarised by the authors of the Cambridge Ancient History as follows:—

"There are three main inter-related types of alphabet: (1) The European (Greek, Etruscan, etc.), (2) The North Semitic with its Canaanite (Hebrew, Phœnician, etc.) and Aramæn branches and (3) the South Semitic or Old Arabian. To these add the Indian derivations, (4) The Brahmini (the parent of the modern Indian alphabets) and the Kharoshthi, of which the latter is certainly, and the former probably, of Aramæn origin. The South Semitic itself presumably dates from the Assyrian age and in some respects appears to stand palaeographically between the North Semitic and the Greek."[1]

Coinage.—Though the taxes were mostly collected in kind, the numerous fines and penalties imposed by

1 Camb. Anc. Hist. Vol. III, pp. 417—18.

[NOTE.—But these and other speculations about the origin and construction of the several alphabets will soon be disproved, or at any rate considerably revised, by the new works by Dr. Waddell to be published shortly in which he proves beyond doubt that all the alphabets of the world, including especially the Asokan, Nagari and the English—the so-called 'Roman' have been derived from the Sumerian picture signs for the simple vowel and single consonantal values in the Sumerian and Early Aryan writing—Author].

kings according to the Code of Manu appear to have been collected in the shape of coins expressed in terms of panas. But various standards seem to have prevailed in several provinces and in different epochs. Manu and Yagnavalkya give the following table of coins.[1]

8 Trasarenus (motes) — 1 Liksha (nit).
8 Likshas — 1 Raja Sarshapa (black mustard seed).
3 Raja Sarshapas — 1 Goura Sarshapa (white mustard seed).
6 Goura Sarshapas — 1 Yava (middle-sized barley corn).
3 Yavas — 1 Krishnala or Raktika (seed of Ganja or Abrus Precalorius).

For Gold and Copper.

5 Krishnalas or Raktikas — 1 Masha (bean).
16 Mashas — 1 Karsha, Aksha, Tolaka or Suvarna.
4 Suvarnas — 1 Pala or Nishka.
10 Palas — 1 Dharana of gold.

For Silver.

2 Krishnalas or Raktikas — 1 Masha.
16 Mashas — 1 Dharana or Purana.
10 Dharanas — 1 Satamana or Pala.

The Brahaspati Smrithi (x. 13 to 15) states that one Karsha of copper is also called Pana or Karshapana or Andika (a measure that is also used for silver) and that four of these are equal to one Dhanaka and twelve Danakas are equal to one Dinara (Denarius). The Narada Smrithi (Appendix 57 et seq.) states that, in

1 Manu VIII, 132 et seq. Yag. I, 361 et seq.

the south, the Karshapana is a silver coin and, in the east, is equal to twenty panas. It also gives the following equivalents:—

4 Kakanis — 1 Masha or Pala.
20 Mashas — 1 Karshapana or Andika.
4 Andikas — 1 Dhanaka.
12 Dhanakas — 1 Suvarna or Dinara.[1]

It is unnecessary to refer to and discuss all the varieties of coins, as mere tables without old coins possess no more than academical interest.

1 Bar. Ind. Anti. Ch. VII.

CHAPTER IV.

CODE OF MANU (2300 B.C.).

SECTION (iv).—TAXES, TOLLS AND DUTIES.

The fundamental principles of Manu's policy of taxation on land, trade and commodities are:—(The verses are quoted from Bühler's translation).

General Rules—

"Having well considered (the rates of) purchase and (of) sale, (the length of) the road, (the expense for) food and condiments, the charges of securing the goods, let the King make the traders pay duty." VII—127.

"After (due) consideration the King shall always fix in his realm the duties and taxes in such a manner that both he himself and the man who does the work receive their due reward." VII—128.

"As the leech, the calf, and the bee take their food, little by little, even so must the King draw from his realm moderate annual taxes." VII—129.

"Let (the King) fix (the rates for) the purchase and sale of all marketable goods, having (duly) considered whence they come, whither they go, how long they

have been kept, the (probable) profit and the (probable) outlay." VIII—401.

"Once in five nights, or at the close of each fortnight, let the King publicly settle the prices for the (merchants)." VIII—402.

"All weights and measures must be duly marked and once in six months let him re-examine them."
VIII—403.

Tolls and duties—

"He who avoids a custom house or a toll he who buys or sells at an improper time, or he who makes a false statement in enumerating his goods, shall be fined eight times the amount of duty which he tried to evade."
VIII—400.

"At a ferry, an (empty) cart shall be made to pay one pana, a man's (load) half a pana, an animal and a woman one-quarter of a (pana), an unloaded man one-half of a quarter." VIII—404.

"Carts (loaden) with vessels full (of merchandise) shall be made to pay toll at a ferry according to the value, (of the goods), empty vessels and men without luggage some trifle." VIII—405.

"For a long passage the boat hire must be proportioned to the places and times; know that this (rule refers) to (passages along) the banks of rivers; at sea there is no settled (freight)." VIII—406.

"But a woman who has been pregnant two months or more, an ascetic, a hermit in the forest, and Brahmanas who are students of the Veda shall not be made to pay toll at a ferry." VIII—407.

Taxes on commodities in normal years—

"A fiftieth part of (the increments on) cattle and gold may be taken by the King and the eighth, sixth or twelfth part of the crops." VII—130.

"He may also take the sixth part of trees, meat, honey, clarified butter, perfumes, (medical) herbs, substances used for flavouring food, flowers, roots, and fruit." VII—131.

"Of leaves, pot herbs, grass, (objects) made of cane, skins, of earthen vessels and all (articles) made of stone." VII—132.

"Let a king take one-twentieth of that (amount) which men well acquainted with settlement of tolls and duties (and) skilful in (estimating the values of) all kinds of merchandise may fix as the value for each salable commodity." VIII—398.

"Let the King confiscate the whole property (of a trader) who, out of greed, exports goods, of which the King has a monopoly, or (the export of which is) forbidden." VIII—399.

"Let the King make the common inhabitants of his realm who live by traffic, pay annually some trifle, which is called a tax." VII—137.

Exemptions from taxes—

"Though dying (with want), the king must not levy a tax on Srotriyas." VII—133.

"A blind man, an idiot, (a cripple) who moves with the help of a board, a man full seventy years old, and he who confers benefits on Srotriyas shall not be compelled by any (king) to pay a tax. VIII—394.

Increased levy of taxes in exceptional times of distress—

"A Kshatriya (King) who in times of distress takes even the fourth part of (the crops) is free from guilt, if he protects his subjects to the best of his ability."

X—118.

"His peculiar duty is conquest, and he must not turn back in danger; having protected the Vaisyas by his weapons, he may cause the legal tax to be collected."

X—119.

"(Viz.) from Vaisyas one-eighth as the tax on grain, one-twentieth (on the profits on gold and cattle) which amount at least to one Karshapana. Sudras, artizans and mechanics (shall) benefit (the King) by (doing) work (for him)." X—120.

These are all the rules prescribed by Manu in regard to land tax and taxes on trades and professions. The first and the most essential principle of Manu's fiscal policy is that no tax of any kind should be imposed by the king without determining the outturn and the amount of labour necessary for the production and distribution of commodities; in other words, the tax is to be levied only on the profits, or gains, or increments added each year to the capital stock, (*Mulyam adhigam—increase of capital—Medh. and Kull*) and not on the capital outlay itself. The profits should be determined with reference to '*Yôgakshemam*, (*Yôgam—according to the trouble and labour involved in producing new things and Kshemam — according to the trouble and labour involved in preserving the things secured—Sar. Nar.*) and '*Vyaya vidhariktha laba vishayam*'. (*Net profit—Nand.*) This principle applies equally to all commodities including grains and crops secured from land and is also

reiterated in the same sense in the Mahabharata-Shanti Parva—Ch. LXXX—16. For the purpose of enabling the king to determine such profits with accuracy, Manu vested the control of prices in the hands of the State and directed that the sale prices of all marketable commodities should be fixed by experts in the presence of merchants, once in five nights, or at the close of each fortnight. This State control of prices appears to be rather a dangerous weapon in the hands of the subordinate officials who even at that remote antiquity had a tendency to degenerate into "knaves who seize the property of others"[1] and who on that account had to be kept under constant check by severe punishments.[2]—As the taxes were collected mostly in kind and the things stored in village granaries and treasuries, to be spent later on also in kind, to meet the expenditure of the State, the kings could take the commodities when the prices were low and sell them when the prices were high and thereby secure also an unearned increment due to the rise in prices. Such a system naturally possessed immense possibilities for mischief and abuse by the subordinate officials, but so long as the State collected its taxes in kind and had to sell its products in open market, this was the only effective method of preventing private combination of merchants against the State and of securing the best advantage to all concerned. According to Medhatithi, the real necessity for the appointment of official appraisers to fix the prices of articles from time to time arose out of the fact that all articles would

1 Manu VII, 122.
2 Ibid VII, 60—68, 80—81, 114—121, 123—124, VIII, 34, IX, 231, 259 & 272.

not be available at all times and places, and even if available, could not be sold at uniform prices throughout the year; for various factors had to be taken into account, viz., the cost of production, the cost of transport, the period of warehousing and so forth, in order to determine accurately the profits on sales at the prices fixed by the appraisers (*argham*) according to the marketable commodities (*yatha paniyam*). Difficult, as it is, for us in the twentieth century to reconcile this State control of prices as a matter of fortnightly routine with our modern conceptions of Political Economy and Political Science, it was, indeed, the only safety-valve with which the author of the code manipulated the revenues of the State without notice and without detection. But so long as this manipulation was made in the interests of the people, there was some safety in the use of the valve; when however, it was made solely in the interests of the government, as Chanakya did in later times, the so-called safety valve became an open door for corruption, jobbery and extortion!

Be that as it may, the fundamental principle of Manu's fiscal policy was, as already pointed out, to levy taxes only on profits after deducting the expenses of production and transport. But having once laid down this general principle in Ch. VII, 127—129 & VIII, 401—403, the author of the Code did not think it necessary to repeat the words,—'profits'—'gains'—or 'increments'—in each of his specific rules of taxation, or against each commodity enumerated by him. The Sanskrit commentators invariably explained each specific rule with the reference to these general principles and their explanation has been accepted as correct by all the English commentators, Sir

W. Jones, Dr. Bühler and Dr. Burnell. We shall now proceed to explain how this principle of taxation was actually applied in the case of the various commodities referred to in the Code.

(1) *Cattle and Gold.*—(M. VII, 130).—As mines, monopolies and treasure-trove were governed by separate rules, the tax leviable on gold, silver and gems was the tax on the income in money, or Income-tax on the capital lent, or the income from the sale of bullion and gems by shroffs. From time immemorial, the wealth of the ancient Indo-Aryans was measured by the number of cattle owned by each individual and consequently they formed an important item which could not escape taxation. The rate of tax leviable under this head was only one-fiftieth, or two per cent., or four pies in the rupee and it was actually assessed on the increments added to the capital stock (*Muliyam adhigam*), or the net profits (*Vyaya vidarikttha laba vishayam*—Medh. Kull. and Nand).

(2) *Grains and Crops.*—(M. VII, 130).—This item will be dealt with separately in the next section.

(3) *The Seventeen Sundry Articles.*—(M. VII, 131—132).—According to Medh. and Kull. the taxes on these commodities were leviable at one-sixth of the net profits (*Muliyam adhigam*).

(4) *Saleable Merchandise.*—(VIII, 398).—These were assessed to a tax at 1|20th or 5 p.c. of the profits (*Laba danath vimsathi bhagam*), the price (*Argham*) being fixed with reference to the commodities—(*Yatha paniyam*)—Medh.—Kull.—Gov. and Ramach).

(5) *Mines and Monopolies.*—(VIII, 399). All mines formed the property of the State and were worked

by State agencies. The State also enjoyed monopolies of elephants in all forests, fine cloth and wool in the east and precious stones and pearls in the south.[1]

The items of revenue referred to above formed the bulk of the miscellaneous revenue, other than Land Revenue, which included most of the Imperial, Provincial, Municipal and Local Fund Taxes, such as Income-tax, Royalties, Seigniorage fees, Customs duties, Taxes on commodities and professions, Market fees, Slaughter-house fees, Ferries and Tolls; no saleable commodity could, in fact, escape taxation at one stage or another. In addition to these taxes, all artizans, mechanics and labourers were required to work for the king one day in each month. Nowhere, either in the Code of Manu or in the later Samhitas, is there any reference to any recognised fees, contributions or meras levied from the people by the Village officials, nor is there any the slightest indication that the vast and multifarious revenues of the State were collected by any agency other than the Government officials. The entire annual revenue was, in fact, collected from each individual ryot exclusively by trusty officials under strict and intelligent supervision. There is also no evidence to show that a single entire village community ever held all property rights in its hands and paid all the taxes, tolls and duties in lump to the king in its corporate capacity. State Treasuries which were mainly granaries and store-houses, were then established at numerous centres, particularly in towns guarded by standing armies, and the taxes and revenues collected both in kind and in money were lodged in them.[2]

1 Manu p 323
2 Ibid 62, 114.

CHAPTER IV.

CODE OF MANU (2300 B.C.).

SECTION (v).—LAND TAX.

Exemptions from Land Tax.—Before dealing with the complicated and delicate question of land tax, it is necessary to indicate briefly the classes of persons who generally enjoyed immunity from taxation and those on whom the incidence of taxation actually fell. Manu at first exempted only the Srot'riyas, but in course of time all Brahmanas secured exemption from taxation, or in the alternative, obtained grants of lands, as Shrot'riems and Maniyams, free of tax. The Kshatriyas all belonged to the ruling caste and they rather levied taxes than paid them to anybody. The kings were specially enjoined not to levy any taxes from Sudras, or serving men, even in times of distress and also from artizans and mechanics who work for the King and the public.[1] The only classes of people that paid the bulk of the taxes were, therefore, the Vaisyas[2] whom the commentators identify with the

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1 Manu X, 120.
2 Bur. M. X, 120. Notes 4 & 5.

people in general when they speak of taxation. The Vaisyas are often referred to by different names in different places, such as *Vanikan, Krishijivanam, Karmanam* or *Kartha,* or traders, merchants and husbandmen, but they all belong to the same Vaisya caste. All agriculturists were, therefore, traders in the sense that they sold their excess products either in their own villages or in distant markets and often derived profits both by agriculture and by trade, paying both land tax and trade duties in respect of the same produce. Consequently, the trade laws are inseparably connected with the land laws, both being governed by the same general principle of taxation on profits.

Application of Manu's Rates.—As regards land tax, Manu prescribed three rates viz., one-sixth, one-eighth and one-twelfth, but Gautama abolished the last rate and raised it to one-tenth. These were the legal rates leviable in years of prosperity; but in times of distress the land tax could be raised up to one-fourth without the king incurring any guilt or sin. Here it should be remembered that the period of distress is not the period when people were affected by famine or seasonal conditions, but the occasions when the king had to incur extra expenditure on account of wars and other national calamities. On such occasions the people were expected to pay increased taxes to help the king in taking effective measures to protect their life and property, and as instances of such increased levies, Manu mentions one-eighth as the tax on grains and one-twentieth on gold and cattle,[1] as against the normal rates of one-twelfth and one-fiftieth respectively. So long as one-eighth is already a legal

1 Manu X, 120.

rate, it may appear rather inconsistent to refer to it as an enhanced rate in times of distress. But the fact is that, though Manu prescribed three rates, his normal rate of land tax in prosperous years was only one-twelfth. Gov: Kull: and Ragh: unanimously assert that the tax on grains and crops was only one-twelfth and that on cattle and gold one-fiftieth in ordinary and prosperous years (*Dharmyam anapathi vakshiyamanam* — normal rates leviable in times without danger) and that in times of danger (*Apathi*), the one-twelfth rate of land tax might be raised to one-eighth, or a sixth which is the medium, or even a fourth in great public adversity. The point is so very clear that Sir W. Jones has incorporated the idea in his translation of the verse[1] itself, while Bühler adds the following note to it:

"120. According to Medh. the first line (of this verse) refers to the profits of the subjects dealing in corn and gold. From the former, the king may take in times of distress one-eighth and from the latter one-twentieth. The second line indicates that artizans who according to VII—138 in ordinary times furnish one piece of work in each month may be made to work more for the king. According to Gov. and Kull., husbandmen (*Krishijivanam* —Gov.) shall give from the increments on grain (*Upacheya*) one-eighth (instead of one-twelfth and in the direst distress one-fourth according to verse 118—Kull), from all increments on gold and so forth amounting to more than a Karshapana, one-twentieth, instead of one-fiftieth as prescribed above.—VII—130. Ragh. in substance agrees with this explanation."[2]

1 Manu X, 120.
2 Buh. M. pp. 427—428.

Thus under Manu's system, the normal rate of land tax in ordinary and prosperous years was only one-twelfth which was of course liable to be enhanced "little by little" up to the medium rate of one-sixth. When these enhancements brought about different rates even in normal times, they were levied "according to the difference of the soil" (*Bhumi utkarsha apakarsha* — superiority or inferiority of the soil) and "the labour necessary to cultivate it" (*Karshanadhi klesa laghava ghourava* — smallness or greatness of labour involved in ploughing—Kull., Ragh. and Nand). It is a well known fact that quite apart from the actual cost of labour, which varies with persons and families from year to year, there are certain permanent factors of variation in the form, quality and quantity of labour required to cultivate lands of different soils, and this is obviously what is referred to by the commentators under Verse VII—130. It is of course as impossible to conceive that all lands were assessed at the lowest rate of one-twelfth, as it is difficult to believe that they were all assessed at the highest rate of one-sixth. The several fractional rates were specially designed to suit such local peculiarities, and as the richest and the most fertile lands should be the smallest in area, the average rate should have been only one-tenth, which was the normal rate prescribed later on by Gautama. As the assessments were based upon the produce, there was no separate charge for irrigation, but the second and third crops should also have paid their share according to the same proportions as for the first crop.

It now remains to be explained how the principle of taxation on profits was applied to grains from land. The tax on grains was not dealt with by Manu as a separate

item quite unconnected with the other taxable commodities, or with his general scheme of taxation. A good deal of popular fiction has, somehow, gathered around the theory of gross produce due apparently to the use of the word 'crops' and the omission to refer to 'profits' in some of the translations of Verse VII—130. As a matter of fact, however, the grains come in only in the middle of the list of all articles governed by the same theory of taxation and are referred to in the original text by the expression 'Dhanyam' and not by crops. Consequently, the expression "and the eighth, sixth or twelfth part of the crops" in Verse VII—130. cannot be wrenched away from the context and shown as indicating the gross produce as the basis of land tax. In fact, the theory of taxation on profits as applied to grains has been clearly established by all the commentators against Verse X—120. Here Kull: says that the one-twelfth or one-eighth or any legal or enhanced rate should be levied only on the profit on agriculture, i.e., '*Upachaya*' (*Upa*—above, excess or increment and *chaya*—to cultivate or to produce) and even this only when there is such an excess (*Upachaye*), thereby pointing to the fact that no tax should be collected, if the ryot had not secured an excess over his expenditure. Gov. also clearly confirms this theory and adds that the one-eighth on grains is leviable only on such agricultural profit,—(*Upachayatah ashtamam bhagam* — one-eighth of such increment or excess). This view has been unreservedly accepted by Sir W. Jones as well as Drs. Bühler and Burnell against Verse X—120. Whatever might be the rate adopted, whether one-sixth, one-eighth, one-tenth, or one-twelfth, the tax was levied only on, and if there was any, profit on agriculture, i.e., the produce obtained after deducting

the expenses of cultivation and of marketing the grains, or in the words of the code itself "after having considered whence they come, whither they go, the probable profit and the probable outlay, so that the man who does the work (*Karmanam* or *Kartha*) and the king may receive a just compensation for their several acts."[1]

Land tax among ancients in other countries.—It may not be out of place here to draw special attention to the rates of land tax adopted by the ancients in other countries in prehistoric times. In Egypt, it is by no means clear what the proportion of the land tax was, to which Pharaoh was in the first instance entitled according to law. He exacted one-fifth[2] of the produce to guard against a particular famine, and having purchased the whole land as his own during that calamity, he restored it to the owners on condition of their paying one-fifth of the produce to the State for ever.[3] The fact of the land tax in Egypt being usually one-fifth is proved by the Romans finding it so when they occupied that country, and in this respect it differed from all other Roman provinces which paid only one-tenth of the produce.

The Jews in Canaan, or the Canaanites, paid only an impost of one-tenth[4] for the benefit of the Levites who were both priests and rulers in Judea. This one-tenth was expressly stated to be 'a tithe' and in addition to this, in times of war the Levites also claimed the captives for slaves and the cattle for their use.

In Greece also, the cultivator paid one-tenth of the produce to the State; the uncultivated lands were used

1 Manu VII, 127—128 & VIII, 401.
2 Gen. Ch. XLI. Ver. 34. 3 Gen. V.V. 20—26.
4 Gen. Ch. XLVII

in common as pasturage, but one-tenth of the grazing beasts were made over to the Government which, in other words, amounted to exacting one-tenth of the produce of common pasturages also. Mines and commerce likewise afforded sources of revenue as well as the capitation tax, probably levied on the aborigines or cultivating slaves. The tenth of the agricultural produce was, however, the most profitable source of revenue, and it was for this reason that Solon urged the people not to allow their lands to lie waste.[1]

In the Roman Empire, the portion of the produce demanded by the State was almost everywhere confined to one-tenth of the produce, and the grain was usually laid up in public magazines and sold or distributed according to circumstances.[2] But the practices among the Romans varied considerably under different circumstances. Col. Wilks has examined in great detail the conditions of Roman tenures and has traced their close affinity to the system prevalent in the East. He observes:—

"In some instances a tribute only was exacted from the conquered and they were left under their own kings and laws. In others, colonies of Romans were sent forth to occupy foreign lands. From these colonists the State exacted one-tenth of the produce of the grain and one-fifth of the produce of trees, the latter being the utmost that was ever demanded. The conquered people were allowed to enjoy such lands as were unoccupied by the colonists on the same terms and the remainder of the lands was either rented for a share of the crops, or kept

1 Beloe's notes to Herodotus Vol. IX, p. 168.
2 Adam Smith's Wealth of Nations Vol. I, p. 240.

for pasture."[1] A very material difference existed, however, between the Roman Colonists, the ancient landowners and the third class called 'Aratores', or the annual ploughmen. The *Coloni* and the ancient proprietors held their lands in perpetuity, while the *Aratores* made their bargains annually and paid according to the increase or decrease of cultivation.

In ancient Babylonia and Assyria, the Code of King Hammurabi prescribed only one-tenth of the produce as land tax. In ancient Persia, at a period anterior to the Muhammadan conquest, the cultivator paid one-tenth of the produce to the State and this '*Asherra*' (or tenth) is the legitimate land tax which exists in all Muhammadan countries at the present day.[2]

In ancient China, one-tenth of the crop was set aside for the State and the remainder was divided between the cultivator and the proprietor according to agreement.[3] In Cochin China and Siam, according to M. De la Bissochere, the amount of land tax was estimated at four per cent. and it was paid by the cultivator who shared the remainder of the crop equally with the proprietor. Crown lands made over to villagers for cultivation paid, however, one-sixth, or about seventeen per cent., of the produce to Government.

In the old Burman Empire, we find from Col. Symes that the Government impost on cultivated lands was only one-tenth of the produce.

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1 Wilks's Mysore Vol. I, Ch. V, p. 141.
2 Ayeen Akbury Vol. I, Part III, pp. 147—148.
3 Abbe Grosier, apud Patton—Asiatic Monarchies, pp. 225—226.

In almost the whole of Asia and Europe, the normal rate of land tax was thus only one-tenth of the produce, though it is by no means certain whether it was levied on the gross produce, or the net produce secured after deducting the expenses of cultivation. It was originally even less in India than in the other countries, until Goutama brought the Indian rate of one-twelfth on line with the universal working rate of one-tenth. But what about the other rates prescribed by Manu? They were certainy the legal and permissive rates introduced with a view to arrive at equitable assessments on lands of different soils and of varying capacities of fertility and irrigation between the universal working rate of one-tenth and the Egyptian maximum of one-fifth. One thing, however, prominently emerges out of these facts, and that is, that the author of the Code of Manu was not altogether unacquainted with the land laws of the other contemporaneous primitive nations, such as, the Egyptians, the Babylonians and the Chinese and that his rates were fixed only after a full comparative knowledge of their land systems.

CHAPTER V.

THE EPIC PERIOD (2300 B.C. to 1000 B.C.)

The antiquity of the Epics.—As in the case of the Code of Manu, so also in the case of the two Epics, there has been a good deal of speculation in regard to their antiquity, some holding the view that the Ramayana is by far anterior to the Mahabharata and others advancing the theory that the tribal wars of the Mahabharata point to its long anteriority to the Ramayana, but none still being able to fix their periods even approximately. In the absence of any reliable historical data, the controversy has centred round the differences in the development of the religious, social and political ideas as disclosed by the two Epics and ably summarised by Monier Williams in the following words: "While the Ramayana generally represents one-sided and exclusive Brahminism, the Mahabharata reflects the multilateral character of Hinduism, its monotheism and polytheism, its spirituality and materialism, its strictness and laxity, it's priestcraft and anti-priestcraft, its hierarchical intolerance and rationalistic philosophy combined."[1] These differences,

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1 Mon. Will. Ind. Wis. p. 418.

no doubt, did exist, but they were mainly due to the fact that the Hindu society was just undergoing the Brahminizing process of reconstruction commenced by Parasurama at the earlier period of the Mahabharata, after severe struggles between the priestly classes and the Mazdayasnians outside India and between the Brahmins and Kshatriyas immediately after their entry into India and that this Brahminizing process was completed within a short time during the period of the Ramayana. The Indo-Sumerian seals have now brought to light a few facts which, though yet fragmentary and disjointed, still establish, with fair approximation to accuracy, the historicity, and contemporaneity of some of the important actors of both the Epics, viz., Viswamitra, Ghalava, Jamadhagni, Sushena, Parasurama, Vasudeva and Sakuni whose seals have been discovered and identified. From the historicity of these personages we can also trace the contemporaneity of a few other actors of the Epics. Vasishta was contemporaneous with Viswamitra and it was their rivalry that led to the formation of the Brahmin caste in India. Vyasa, the author of the Mahabharata, was the son born of Satyawati during her virginity before her marriage with Richika and as such was the step-brother of Jamadhagni and the uncle of Parasurama. Karna, the famous rival of Arjuna, learnt his archery under Parasurama in Mount Mahendra, where he, with surprising fortitude and endurance, allowed a reptile to bore his thigh, when his Guru, Parasurama, was sleeping on his lap in the forest. Vasudeva was the father of Krishna who took the side of the Panchalas. It may therefore be fairly assumed from these facts that the wars of the Mahabharata should have taken place in about 2300 B.C.

Though Monier Williams regards Vyasa as an imaginary compiler, it now appears that he was contemporaneous with the actors of the great war and was the real author of the original work known as 'Bharatam' which was subsequently swelled by the addition of a great number of interminable stories into a 'Mahabharatam' by a succession of later poets who carried on the process of redaction and amplification down to the 10th century B.C. The Brahminizing process was in full swing at the time of the compilation of the original "Bharatam', when the practices of Brahmins, Kshatriyas and Vaisyas taking additional wives from their lower orders, of women of all castes begetting children by Rishis and of widows begetting children by appointed husbands referred to in the Code of Manu were the ordinary features of the society described in the Adi Parva of the Mahabharata. Again, the whole of the '*Raja dharmam*' preached by Bhishma and other sages in the Shanti Parva is practically a detailed summary of the Code of Manu. These facts lend full support to the statement already made that the Mahabharata, or at any rate its original edition, closely followed the Code of Manu.

As regards the exploits of Rama, the Indo-Sumerian seals now disclose that the Kasis and the Kosalas were contemporaneous with the Kurus and Panchalas. Viswamitra and Vasishta both played a prominent part in shaping the destinies of the hero of the Ramayana. Parasurama also encountered Rama in a fight but was himself defeated and compelled to acknowledge the invincibility of Rama. It was Professor Weber that suggested an enquiry whether 'the Ramopakyana' version in the Mahabharata was not more primitive and possibly even the

original version, out of which the Ramayana was developed. From the contemporaneity of the several actors referred to above, it would appear that his surmise was not altogether unfounded. Vyasa, certainly, drew up his 'Ramopakyanam' from his personal and contemporaneous knowledge of Rama's exile and exploits and included it in his 'Bharatam' at a time when Valmiki had not yet composed his great Epic; for we see that Vyasa does not refer to Valmiki at all. In fact, Valmiki appears to have completed his Ramayana only during the life-time of the twin sons of Rama, Kusa and Lava, whom he sent out into the world to sing the praises of the Ramayana with the following direction.

"Recite, ye, this heroic song
In tranquil shades where sages throng,
Recite it where the good resort,
In lonely home and royal courts."[1]

Mr. Cust (Calcutta Review XLV) thinks that Valmiki may have been contemporaneous with the heroes whom he describes.[2] The only possible inference that can be drawn from this is that Valmiki drew his inspiration and the plot of the story for his Ramayana from Vyasa's 'Ramopakyanam' and completed his Epic only in the next generation after Rama during the life-time of his twin sons, Kusa and Lava. There seems, therefore, to be no doubt that the exploits of Rama took place also in the same century as those of the Mahabharata, but that the Ramayana was compiled within a generation or two after the compilation of the original 'Bharatam' by

1 Griffith's Rama.
2 Mon. Will. Ind. Wis. p. 337—338. Note (1).

Vyasa. Signor Gorresio, the Italian translator of the Ramayana, has fixed the date of this Epic to the 13th century B.C. on a reference to it contained in the 'Rajatharangini', or the History of Cashmire, translated by M. Troyer who has assigned 1182 B.C. to King Gonardo III, fifth in succession from Damodhara II who received absolution of his sins by reciting the Ramayana. And he has arrived at this computation merely on the basis of an average period of thirty years for a generation. Even so, it should have taken a long time for an Epic of this kind to gather around it a world-wide reputation for purging sins by constant repetition by minstrels and bards from Cashmere to Cape Comorin. The 22nd century B.C. would thus appear to be the more approximate date for the compilation of the Ramayana. The references to Buddhism in both the Epics are obviously later interpolations. In regard to a particular reference to Buddhism in the Ramayana, M. M. Kumte observes:—

"But in a canto of the Ramayana the name of Buddha occurs, a circumstance which apparently threatens to upset our system of chronology. We consider that the verses, which mention Buddha, are an interpolation. We will state our reasons. (1) Every canto of the Ramayana ends with a long sloka different in its metre from the 'Anustubh' in which the poem is written. The canto referred to does not follow this rule. There are six long slokas at the end of this canto. (2) The dialogue between Jabali and Rama is really finished in the first long sloka. The other long slokas re-open it abruptly. (3) The long slokas do not sustain the general character of Rama as depicted by Valmiki in his Epic. (4) The long slokas directly contradict the tone of the dialogue as described in the canto itself. (5) The poet"

"describes Jabali as a great man; Rama in the long sloka speaks violently of him and even characterises him as a thief. Jabali was a materialist, probably a follower of Brihaspati who, however, disbelieves the doctrine of transmigration of souls, while Jabali of the Ramayana suggests it. Perhaps, atheism to which Panini refers, was not as yet systematised."[1] Similar references to Buddha and Buddhism in the two Epics could also be easily dismissed as interpolations.

Land and Trade Laws of the Mahabharata period.— First, we shall take up the Mahabharata. So far as Land and Trade Laws are concerned, this Epic contains an almost verbatim reproduction of Manu's Laws as shown below:—

[Mahabharata-Santi Parva with references to corresponding rules in Manu's Code.]

The King should appoint five ministers to superintend his affairs, who should be intelligent, shorn of pride, possessed of patience, loyalty, firmness, courage, learning and resources under difficulties. Their number should not be less than three.

(Ch. LXXXIII, 20—23. 40) [M. VII—54.]

Four Brahmanas learned in the Vedas, eight Kshatriyas possessing physical strength and capable of wielding weapons, twenty-one rich Vaisyas, three Sudras and one man of the Suta caste should form a Privy Council, of whom the King should consult eight ministers at least at a time.

(Ch. LXXXV. 7—11). [M. VII—54.]

A Headman should be selected for each village; over ten villages, a Superintendent should be appointed; over

1 Kumte Ary. Civi. p. 449.

two such Superintendents, there should be one officer; above the latter should be appointed persons, under each of whom there should be a hundred villages; and above the last kind of officers should be appointed men, each of whom should govern a thousand villages.

(Ch. LXXXVII, 3). [M. VII—115.]

The Headman should determine the characteristics of every person in the village and all the crimes that deserve punishment. He should report everything to the officer in charge of ten villages. The latter again should report the same to the officer in charge of twenty villages.

(Ibid 4). [M. VII—116.]

The latter again should report the conduct of the persons within his province to the officer in charge of a hun dred villages.

(Ibid 5). [M. VII—117.]

The village headman should control over all the produce and properties of the village. Every headman should contribute his quota for maintaining the chief of ten villages, and the latter should do the same for maintaining the chief of twenty villages.

(Ibid 6). [M. VII—118.]

The lord of a hundred villages should receive all honours from the King and should have for his support a large, populous and rich village.

(Ibid 7). [M. VII—119.]

Such a village should be within the jurisdiction of the chief of a thousand villages, who should likewise have a small town for his support.

(Ibid 8). [M. VII—119.]

He should use for his own self the grain, gold and other things derivable from it. He should perform all the duties relating to its wars and manage all its other internal affairs.

(Ibid 9). [M. VII—121—122.]

An intelligent King should milk his Kingdom like calves. If the calf is permitted to suck, it grows strong and carries heavy loads. If the cow is milked too much, the calf becomes lean and useless to the owner.

(Ibid 20—21). [M. VII—129.]

The King should milk his Kingdom like a bee collecting honey from plants. He should also act like the leech taking blood mildly. He should treat his subjects like a tigress carrying her cubs, touching them wih her teeth, but never cutting them therewith.

(Ch. LXXXVIII, 4—5). [M. VII—129.]

Little by little should be drained from a properous subject. The demand should then be gradually increased till it reaches a fair amount.

(Ibid 7—8). [M. VII—129.]

Knowing every time the quantity of the manufactures, the receipts and expenses of the manufacturers and the state of the arts, the King should levy taxes upon the artizans regarding the arts they follow.

[M. VII—127-128.]
(Ch. LXXXVII, 14). [M. VIII—401.]

No tax should be levied without determining the outturn and the amount of labour necessary for its production. Nobody would work without sufficient cause.

(Ibid 16). [M. VII—127.]

The King should after proper thought impose taxes in such a way, that he and the person that labours to produce the article taxed, may both partake of the out-turn.

(Ibid 17). [M. VII—128.]

For making collection in times of extreme danger, the King should visit the principal centres of his kingdom one after another and try to fill his people with fear. He should tell them—'Here a great danger threatens us. Our enemies have engendered a great calamity for us. To meet this calamity and dreadful danger, I seek your wealth for concerting measures for your protection. When the danger passes away, I will repay you what I now take. Our foes, however, will not return what they will take from you by force. I shall take from you what you can easily spare and shall not give pain to any one.'

(Ch LXXXVII, 26—32) [M. X—120.]

The Shrutis say that in crowning a king it is Indra that is crowned in the person of the King. A person who seeks his own prosperity, should adore the King as he should adore Indra himself.

(Ch. LXVII, 4). [M. V—96, VII—5-8.]

The election and coronation of a King is the first duty of a Kingdom. A Kingdom in which anarchy reigns, becomes weak and is soon attacked by robbers.

(Ibid 2). [M. VII—17-30.]

If there were no King on earth for holding the rod of punishment, the strong would then have oppressed the weak after the manner of fishes in the water.

(Ibid 16). [M. VII—20-21.]

A King should always conciliate and protect the Vaisyas, take measures for filling them with a sense of

security and for ensuring them in the enjoyment of what they possess and always do what they like.
(Ch. LXXXVII, 3). [M. VII—20-21.]

These are in short the rules that were followed at the time of the Mahabharata in regard to the administration of land and land revenue and they are essentially the same as those set forth in the Code of Manu and already discussed in detail in the preceding chapter. The conception of the divine right of kings and their sovereign powers, the methods of administration and the collection of taxes clearly show that the rules drawn up by Manu were still in their early stages of operation at the time of the Mahabharata and that they had neither lost their vigour, nor gained in rigour within the short period intervening between the Code of Manu and the Mahabharata.

The period of the Ramayana.—The Ramayana which was compiled in a tract far removed from the 'Brahmavarta' within a century after the compilation of the Mahabharata, introduces us at once to a more settled state of society and polity, wherein the caste system had become a permanent and agreeable feature of the society, the religious animosities had vanished and the political administration had also reached a highly centralized and settled form of Government. For a nation which had already reached a stage of civilization on a par with the Babylonians and which had extended their wars and conquests from Kashmere to Lanka, it did not necessarily require a long evolution to reach this stage; for have we not seen the modern European States settling down to normal conditions within half a decade after the Great Germanic War of 1914—1919? The periods

immediately following such cataclysmic wars are exactly the periods when the several rival nations, clans, communities and individuals, exhausted by the appalling wastage of men, wealth and property, easily submit themselves to reconciliation and readjustment. It is, therefore, no wonder that Rama's empire was soon placed on a permanent and stable footing within a few generations after the great wars of the Epics. Whatever might be the other differences, the material condition of the masses of the people, their ideas of property, the facilities for trade and commerce which they enjoyed and the principles of administration prevalent during the period of the Ramayana disclosed no appreciable change from the period of the Mahabharata.

King Dasaratha had ten ministers in all, of whom two controlled religion and conscience of the people, three attended to military affairs and foreign policy, two supervised expense and commerce, two maintained law and order and administered justice and the last was the King's Military Secretary and Chief Counsellor.

> "Well skilled in business, fair and just,
> They gained the people's love and trust.
> And thus without oppression stored
> The swelling treasury of their lord.
> They fairly judged both high and low,
> And never would wrong a guiltless foe.
> Yet, if a fault were proved, each one
> Would punish his own dear son."

NOTE.—The quotations are all taken from Mr. Griffith's metrical translation of the Ramayana.

The result of such administration was:—

"Contented with their lot, each caste,
Calm days in blissful quiet passed;
And all in fitting tasks employed,
Country and town, deep rest enjoyed."

The taxes were collected on the same principles as those enunciated by Manu.

"That lord of earth were most unjust,
Foul traitor to his solemn trust,
Who should a sixth-part of all require
And not guard his subjects like a Sire."

This one-sixth share has always been more honoured by frequent repetition than the other rates, mainly on account of the fact that it represents the highest rate chargeable in normal times. The revenue administration had by this time developed to such an extent that it became possible to make assignments of the revenues of provinces for the maintenance of the royal families:—

"And good Kausalya can well fee
A thousand champions like to me,
A thousand hamlets rich in grain,
The station of that Queen to maintain,
She may, and my mother too,
Live on this ample revenue."

The opening description of the city of Ayodhya, the Imperial seat, looks like that of a painted city resembling the residence of 'Sri' with palaces, forts and ramparts, with goodly rows of terraced houses whose walls were variegated with diverse sorts of gems arranged like the divisions of a chess board, with heaps of pearls, corals and diamonds, with shops and godowns filled with

merchandise, with elephants, horses and chariots crowded together and with merchants drawn from various countries. Making ample allowance for poetic exaggeration, it seems fairly certain that Ayodhya was a city of wealth and attraction and that its prosperity was mainly due to extensive trade and commerce, both internal and foreign carried on at that period, as will be seen from the following description of the rare and valuable articles received at the time of the coronation of both Yudhishtra and Rama:—

"From Kamboja (Cambyses) were brought cloths of wool and skins of animals that live in holes. From Vahili hills (Bacteriana) and Sindhu's sands (the banks of the Indus) and from Vanayu (a Kingdom in Western Asia) came horses 'partridge-spotted' and 'parrot-nosed'. From beyond the Oxus came weapons of iron and swords with hilts of ivory. Other mountaineers brought shawls of goat's hair and silken threads spun by worms. From Tibet were sent the bushy tails of the yawk (wild ox), some white and some black. Sacred chanks, gems, corals and heaps of pearls were the offerings from Ceylon, while from the Carnatic came sandalwood and *agalachhum* shown by Dr. Royle to be the tree 'Agala' or the Eaglewood most used in a state of decay."[1] These constituted the imports. The articles exported were silks and muslins to Egypt, pearls and corals to Rome, rice to Greece, pepper, cardamoms and frankincense to Egypt and Arabia and several sundry articles to the countries of Central and Western Asia. Manu himself has stated that no fixed rates of freight could be laid down for long

1 Mrs. Spier. Anc. Ind. pp. 159—160.

passages by sea, that they should be settled on each occasion by the merchants and shipowners themselves and that loans advanced to merchants carrying on sea-borne trade should be supported by sureties and might be charged any stipulated interest above the legal rate. The Ramayana gives a long list of skilled artizans carrying on trade, each class protecting their interests by trade organizations and guilds:

"Thus every man of high renown,
And every merchant of the town,
And leading subjects joyous went
Towards Rama in banishment.
And those who worked the potter's wheel,
And artists skilled in gems to deal,
And masters of the weaver's art,
And they who golden trinkets made,
And those who plied the fuller's trade,
And servants trained the bath to heat,
And they who dealt in incense sweet,
Physicians in their business skilled,
And workmen deft in glass who wrought,
And those who wine and mead distilled
And those whose snares the peacock caught,
With them who bored the ear for rings,
And those who knew to mix cement,
Or lived by sale of precious scent."

Every artizan should be a member of a trade guild and no one should contravene the compacts and agreements made by such guilds.

"Then in his proper duty skilled
Each joined him to his several guild."

The Ramayana, following as it does the Code of Manu within a short space of one century, refers to some gold coins prevalent at that time.

"Thine, be my elephant so famed,
My uncle's present, Victor named,
And let a thousand coins of gold
Great Brahmin, with the gift be told."

Again:

"The throng who sacred girdles wear,
And on Kausalya wait with care,
A thousand gold coins shall please,
Son of Sumithra, each of these.'

Again:

"A piece of gold, the smallest pay,
Was earned by labour for a day."

These were evidently the gold coins—Suvarna and Niksha—referred to in Section (iv) of Chapter IV above. Almost all the ancient nations of Asia, Egypt and Greece had a coinage of their own during what is called the Epic period of India. Dr. Waddell refers to a primitive nation, called the Phoenicians of the 30th century B.C., who formed a branch of the ancient Indo-Sumero-Phœnician—British Confederacy of Central Asia and identifies them as the Panchalas of Mahabharata fame who were the richest bankers and traders of India prior to 2000 B.C.

In addition to coinage, the Ramayana makes brief references to the art of writing prevalent at that period.

"He gave the ring that bore his name,
A token for the captive dame,
That the sad Lady in her woe,
The missive of her Lord may know."

Again:

"Receive, he cried, this precious ring
Sure token from thy Lord, the King,
The golden ring he wont to wear,
See Rama's name engraven there."

Again:

"Then shall his furious shafts be sped,
Each like a snake with firy head
And in their flight shall hiss and flame.
Marked with the mighty archer's name."

It was the custom among ancient Indian warriors to mark their arrows with their names, so as to give the enemy the satisfaction of knowing who had shot at him.

Thus during the Epic period a hereditary monarch holds sway over a vast empire and stands at the head of a highly centralized government carried on by a cabinet of ministers specially trained in the art of governance. The King claimed a share of the produce as land tax and levied it at the lawful rates prescribed by Manu. There is so far no trace of any feudal or intermediary tenures, nor is there any semblance of any rigidly isolated village communities, or rural republics, possessing communistic property rights, or acting in corporate capacity. Even the meanest subjects were allowed to lay their grievances before the king who administered justice and settled disputes in a thoroughly impartial and business-like manner. The industrial and commercial prosperity of the country clearly indicates the possibilities open to all classes of people to develop their individual resources and to become landed magnates, captains of trade and monopolists of arts and industries. A

close contact had also been established long before 1000 B.C. with all the sister nations of Asia, Egypt and Greece, of whom the last had borrowed and incorporated in their language the names of several Indian product's, such as, *'Arisi'*, *'Karuva'*, *'Karai'*, *'Senapathi'* and so forth. The whole of the Epic period from 2300 B.C. to 1000 B.C. thus marks the smooth working stage of the individualistic theory of property in land.

CHAPTER VI.

THE SUTHRA PERIOD (1000 B.C. TO THE CHRISTIAN ERA).

SECTION (i).—THE SMRITHIS (1000 B.C.—320 B.C.).

The Suthra period marks the stage at which changes were introduced on a large scale into all branches of Manu's Laws as the result of their working for well over a millennium and a half. This period divides itself into two parts, the one relating to the religio-social evolution from 1000 B.C. to 320 B.C. and the other to the political evolution from 320 B.C. to the beginning of the Christian era. During the earlier period, the numerous Smrithi writers, such as, Yagnavalkya, Goutama, Apastamba, Vasishta, Boudhayana, Vishnu and others busied themselves mainly in strengthening and consolidating the Brahminising process in order to withstand the then growing impact of Buddhism. They also codified the Hindu Law of property and settled the numerous disputed questions relating to the succession and inheritance of property by the large body of illegitimate and subsidiary sons and sons of appointed daughters and appointed husbands who had already multiplied to such a large extent as to create

numerous law suits. They further proclaimed a ban on the promiscuous intermarriages between the several castes and divided the society into several rigid compartments, each with its own social laws and traditions, but all co-ordinated towards a common political evolution. The Smrithi writers, however, very rarely meddled with politics, economics, land, agriculture, trade and commerce, but were almost exclusively engaged in multiplying the religio-social laws and amplifying the Hindu Law of property. We do not propose to embark upon any attempt to fix the chronology of these Smrithi writers; but suffice it to point out here that the Kautilya Arthasastra itself clearly shows that the Hindu society had been brought to a full working order long before the period of Chanakya and what little signs of social reconstruction were disclosed by the Smrithis were merely the result of the small re-adjustments made in completing the Brahminising or sectarian process, in order to counteract the unifying or levelling-down process, adopted by the Buddhists.

During the later period from 320 B.C. to the Christian era, the political and administrative machinery was thoroughly overhauled and reformed by Chanakya who, in turn, very rarely meddled with the society and the law of property. The evolution of the political science which he commenced in about 320 B.C. formed exactly the starting point for our modern institutions, but as we have fixed a limit to our investigation, we shall for the present give only a brief description of the nursery ground from which Baden-Powell evolved his land systems of British India with unrivalled ability and characteristic thoroughness.

Changes introduced during the Smrithic period.—First, we shall deal with the small fragmentary changes introduced by the Smrithi writers into Manu's land and trade laws during the earlier period. For the sake of convenience, we have brought them all together in one view in the subjoined tabular statement.

I.—*Land Tax.*—

Most of these later day law-givers merely reiterated the maximum rate of one-sixth prescribed by Manu for normal years, while Goutama alone substituted one-tenth for Manu's lowest rate of one-twelfth. In regard to exemptions from land tax, all are agreed that the Brahmanas should pay no taxes; but a few other persons are also mentioned as eligible for exemption, viz., old men, women, widows, minors, students, hermits, etc. It is, however, highly doubtful whether all these persons ever enjoyed immunity from land tax. The exemptions allowed in respect of these persons obviously related to tolls and ferries and not to land tax.

II.—*Increments on Cattle and Gold.*—

Most of the law-givers are agreed that the tax under this head should be 2 per cent. as laid down by Manu.

III.—*The Seventeen Sundry Articles.*—

Vishnu confirms Manu's one-sixth rate, while Vasishta exempts from taxation the usufruct of rivers, dry grass and forest produce; but Goutama reduces the tax on all the seventeen articles to one-sixtieth. It seems somewhat strange that this law-giver, who, wherever he disagrees from Manu, always errs on the side of severity, should fix such a low rate as one-sixtieth.

	Items of Taxation.	Manu (Bühler)	Gout. (Bühler)	Vish. (Jolly.)	Vas. (Bühler)	Boudh. (Bühler)	Apa. (Bühler)
I	Land Tax on (*a*) grains, (normal years).	1/6, 1/8, 1/12 **(VII—130)**	1/6, 1/8, 1/10 **(X—24)**	1/6 **(III—22-23)**	1/6 **(I—42)**	1/6 **(I—18-1)**	All lawful taxes.
	(*b*) Period of distress.	1/8, 1/6, 1/4 **(X—118-120)**	..	..	..	..	..
	(*c*) Exemptions.	Srotriyas—blind men, idiots, cripples, old men and men who confer benefits on Srotriyas. **(VII—135, VII—394)**	..	Brahmanas. **(III—26)**	Srotriyas—servants of the king, hermits, infants, old men, students, widows and wives of servants. **(XIX—23-24, I—43)**	..	Brahmanas—women of all castes, students, minors, sudra servants and infirm persons.
II	Increments on cattle and gold.	1/50th	1/50th	1/50th	..	..	..

III	Seventeen Miscellaneous articles.	1/6th (VII—131-132)	1/60th (X—27)	1/6th (III—25)	No taxes on usufruct of rivers, dry grass, forests, mountains and places of combustion. (XIX—26)	..	..
IV	Saleable Merchandise.	1/20 th (VIII—398)	1/20th (X—27)	1/10 for articles sold in the country, 1/20 for exported articles. (III—29-30)	..	1/10 for imported articles. (I—13-14)	..

IV.—*Saleable Merchandise.*—

Manu prescribed one-twentieth in respect of these articles and Goutama has confirmed it. Vishnu and Boudhayana, however, would charge one-tenth on all imported articles and one-twentieth on exported articles.

These are in brief the slight modifications made by these later day law-givers. But the fact that the changes made by them were few and far between does not necessarily indicate that the country was sailing smooth under Manu's Laws of the 23rd century. Successive waves of foreign invasions, such as those of Cyrus, Darius, Alexander and the Indo-Scythians shook the very foundations of kingdoms and empires in India and loosened the power of kings over their subjects. Political weakness always lowers the morale of the people and the instinct of self-protection and self-aggrandisement under conditions of helplessness, and timidity invariably leads to mutual distrust, flattery, sycophancy and deceipt. Such were, indeed, the conditions under which Chanakya found his kingdom, when he saved it from the yoke of the Nanda Kings.

CHAPTER VI.

THE SUTHRA PERIOD.

SECTION (ii).—THE KAUTILYA ARTHASASTRA (320 B.C.).

The Kautilya Arthasastra.—Chanakya at once evolved a new code, called the 'Kautilya Arthasastra', in about 320 B.C. superseding many of the antiquated laws of his predecessors, so as to suit the special exigencies of a lost kingdom, of which he was himself the King-maker. In fact, in many places in the body of the Code, after referring to the rules of his predecessors, Chanakya begins to expound his own theories with the prelude. 'No, says Kautilya,' 'Not so, says Kautilya,' and so forth. At the end of his Arthasastra he frankly observes:—"This sastra has been made by him who from intolerance (of misrule) quickly rescued the scriptures and the science of weapons and the earth which had passed to the Nanda King."[1] Again he adds: "Having seen discrepancies in many ways on the part of the writers on the commentaries on the Sastras, Vishnugupta himself (Chanakya) has made (this) sastra and commentary."[2] The Kautilya Arthasastra was thus a special code drawn up

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1 & 2 Kaut. Arth. p. 520.

to overcome the forces of disorder in a particular kingdom, with special reference to the conditions of its people and the administration. In dealing with the situation, however, Chanakya rather erred too much on the side of severity and himself paved the way for greater misrule than had ever existed before. For Bana, the author of Kadambri rightly characterised the Arthasastra as "merciless in its precepts and rich in cruelty" and the ministers of that period as councillors "always inclined to deceive others" and whose desire was always "for the goddess of wealth that has been cast away by thousands of Kings."[1] We shall, however, proceed to examine the actual provisions of the Kautilya Arthasastra[2] in so far as they relate to the administration of land, land revenue and trade.

The Divine Right of Kings.—Being himself a King-maker, Chanakya makes no reference to the Divine Right of Kings, but merely classifies them under the heads of wise, unrighteous and vicious Kings, all of them being of course absolute monarchs. The theory of the divine right had almost become a myth, but had not yet been finally discarded.

The Ministers and Council Meetings.—The council of ministers was not restricted to any particular number, but consisted of as many persons as the needs of the dominions required. The deliberations of the council were conducted with utmost secrecy within council chambers. On difficult and controversial questions, however, the

1 Kaut. Arth. Introd. p. x.

2 The rules in the Kautilya Arthasastra by Dr. Sharma Sastry, which are widely scattered and disjointed, have been brought together here in one view.

king was, enjoined to consult only two or three ministers on each subject and, where necessary, also a specialist outside the council; for consultation with more than four ministers would neither facilitate quick decision, nor ensure secrecy of counsels. But in the case of works of emergency, the King might summon both the ministers in charge of the concerned departments as well as the assembly of ministers and be guided by the majority of them. Whoever disclosed State counsels was torn to pieces. The chief minister received a salary of 48,000 panas per annum, while the members of the council received each a salary of 12,000 panas per annum.

The Government Departments.—Besides the King's private establishment and the military officials, there were on the administrative side the Collector-General, Commissioners, Superintendents and other Ministerial officials and Accountants to look after the business of the State. The Collector-General, whose salary was 24,000 panas per annum, was the Chief Controlling Authority for the collection of revenue. The Commissioners and Superintendents, whose pay ranged from 12,000 to 4,000 panas, were in direct charge of the several departments, such as agriculture, commerce, storehouses, tolls, ships, liquor and so forth under the general control and supervision of the Collector-General. The efficiency of these officials was tested mainly by the increase of revenue shown by them. Whoever collected the settled revenue, or more than that amount, was honoured by promotion and reward; whoever lessened the revenues was compelled to make good the loss, and whoever spent the public revenues on unprofitable works was punished in proportion to the value of such work done.

Elaborate precautions were taken against embezzlements by Government servants, and with a view to detect frauds frequently committed by them and to ensure the accuracy of the accounts, numerous Audit Officers and District Accountants frequently checked the accounts and submitted statements and reports and, where necessary, the accounts themselves, to their superior officers. The items of revenue and expenditure were closely checked with vouchers, bills and receipts in the month of 'Ashada.' "The receipts shall be verified with reference to the place and time pertaining to them, the form of their collection (i.e., capital, share), the amount of the present and the past produce, the person who has paid it, the person who caused its payment, the officer who fixed the amount payable and the officer who received it. The expenditure shall be verified with reference to the cause of the profit from any source in the place and time pertaining to each of them, the amount payable, the amount paid, the person who ordered the collection, the person who remitted the same, the person who delivered it and the person who finally received it."[1] Any clerk who violated, or deviated from, the prescribed rules was liable to a fine of 12 panas. He who scraped off the net total was doubly punished; he who swallowed the receipt by chewing it was punished eight times; and he who caused loss of revenue was not only liable to make good the loss but also to pay a fine of five times the amount lost.

Classification of Villages for Revenue purposes.— The villages were first classified into three groups, the first, middle and lowest rank and were then brought under one or other of the following heads:—(1) Villages

1 Kaut. Arth. p. 72.

exempted from taxation, (2) Those that supplied soldiers, (3) Those that paid the taxes in the form of grains, cattle, gold or raw materials and (4) Those that supplied free labour and dairy produce in lieu of taxes. These correspond to (1) Shrotriem and personal inams, (2) War service or feudal tenures, (3) Ryotwary tenure, and (4) Service Inams respectively.

Classification of Lands.—The lands were divided into four main classes, viz., (1) Pasture grounds and communal lands, (2) Cultivable crown lands, (3) Inams or endowments, and (4) Lands with private ownership.

(1) The communal lands consisted of pasture grounds, threshing floors, temples, flower gardens, places of sacrifice and pilgrimage, tanks, rivers, roads, by-paths, parks, etc. The pasture lands were specially protected by a separate Superintendent who issued passes for the cattle to graze and opened fresh pasture grounds between any two dangerous places. The other communal perambokes were also carefully safeguarded from encroachments and damages. Encroachments on boundaries were punished with the first amercement and destruction of boundaries with a fine of 24 panas. Similar punishments were inflicted in respect of encroachments on hermitages in forests, pasture lands, high roads, cremation grounds, temples, sacrificial places, etc., and the obstructions removed at once. A neighbour who made encroachment upon a field during the time of sowing seeds, was liable to fine.

(2) *Cultivable crown lands.*—The chief business of the Superintendent of Agriculture was to cultivate all the available crown lands, of which there were extensive areas in all villages. In order to enable him to

regulate his agricultural operations with reference to rainfall, he first set up in front of each storehouse a bowl with its mouth as wide as an 'aratni' (24 angulas) as a rain guage (varshamana). Whenever there was a rainfall of one-third of the required quantity in the commencing and the closing months of the rainy season and two-thirds in the middle, the rainfall was considered even. The Superintendent was required to keep in stock, sufficiently early before the cultivation season, the required number or quantity of ploughs, instruments, bullocks, seed grain and so forth and to cultivate all crown lands in proper season with the aid of labourers, slaves and prisoners. Where there was paucity of labourers, the lands were leased out to those who would cultivate them for half-share of the produce, or to the labourers themselves for one-fourth, or one-fifth, of the produce, or any share which they could conveniently pay to the King. Unreclaimed lands should not be taken away from those who are preparing them for cultivation, while lands prepared for cultivation should be assigned, or leased out, only for life, provided they are cultivated regularly and the rents paid without default. Such faithful tenants were favourably supplied with grains, cattle and money as advances for cultivation, while those who neglected to cultivate the lands were evicted and the lands cultivated by village labourers and traders. After harvest, the entire produce collected from the crown lands was sent to the royal storehouses to be disposed of later on according to necessity.

(3) *Inams and Endowments.*—Srotriyas, priests and preceptors were granted Brahmadayam lands exempt

from all taxes. Similar grants were made to Government officials, such as, the Superintendent's, Accountants, Gopas, Sthanikas, Veterinary Surgeons, Horse-trainers and Messengers, as also to artizans and service performers, such as, physicians, astrologers, painters, actors, dancers, pipers, drummers, musicians and so forth; but in all such cases, the lands could not be alienated but could be enjoyed free only so long as the service was rendered. Religious and charitable institutions were also richly endowed with properties for their upkeep and in times of danger, the Superintendent of religious institutions was specially required to collect in one place all the properties belonging to the temples.

(4) *Lands with private ownership.*

(i) *Ownership and easement right.*—Subject to the following limitations, the absentee landlords always retained their title to their lands and houses. Buildings left for 20 years in the enjoyment of others cannot be reclaimed, but the mere occupation of Government buildings or other private buildings by kinsmen, priests or heretics shall not give them the right of possession. The same rules apply to open deposits, pledges, or to any property belonging to kings, priests and srotriyas. The property of hermits, ascetics and bachelors learning the Vedas shall, on their death, be taken by their preceptor, disciples, brethren or class-mates in succession. The rights to all other private properties were regulated by the law of inheritance and partition.

(ii) *Ownership of inalienable lands.*—Persons who are exempt from taxation and who sojourn abroad shall retain their right of ownership to their lands. Any

person who is in possession of such inalienable land shall restore it after five years' enjoyment on taking compensation for improvement.

(iii) *Sale without ownership.*—This was dealt with on the same lines as those indicated in the Code of Manu.

(iv) *Acquisition of ownership by new settlers.*—No tax-payer should settle in a village not inhabited by tax-payers, and all sales of lands should take place only between tax-payers. Brahmanas should, in particular, sell or mortgage their lands only to members of their own caste who own similar lands.

Revenue Registry and Revenue Accounts.—The fields were classified and numbered as cultivated, waste, wet lands, garden lands, plains or dry lands, forests, pasture grounds, roads, irrigation works, temples, altars, fences, choultries, water pandals, cremation grounds, places of pilgrimage and so forth. All gifts, sales, charities and remission of taxes regarding them were registered in the accounts. These changes correspond to our modern assignments on darkhasts, patta transfers, relinquishments and re-assignments. Houses were also classified into tax-paying and non-tax-paying, apparently with reference to the lands on which the houses were built, such as, town-sites, rural village sites, or assessed lands. These correspond to our modern house-site darkhasts. Accounts were also kept of all persons carrying on arts, professions, industries and manufactures together with their history, income, expenditure and family savings as well as of emigration and immigration. These are analogous to the statistics now collected in connection with famines and to the economic enquiries made at odd intervals of time.

Boundary disputes.—The extremities of the kingdoms were protected by boundary guards, while the boundaries of villages and fields were maintained mostly in accordance with the rules laid down in the Code of Manu.

Irrigation Works.—It was the primary duty of kings from time immemorial to construct lakes, reservoirs, tanks and wells for purposes of irrigation and to connect them, wherever possible, with other perennial sources. Where private persons wished to construct such works of their own accord, the king should provide them with sites, roads, timber and other necessary things. Whoever stayed away from any co-operative construction, but sent his servants and bullocks to carry on the work, had only a share in the expenditure, but no claim to the profit. The king exercised his right of ownership in regard to fishing, ferrying and sale of vegetables in all such reservoirs and lakes. The cultivation of tank-bed lands thus appears to be an immemorial custom dating as far back as 300 B.C. The natural flow of water from a higher to a lower tank should not be stopped, unless the latter had ceased to be useful for over three consecutive years, nor should the water of a lower tank be allowed to submerge the lands irrigated by a higher tank. Persons letting out the water of tanks and other irrigation works otherwise than through sluices, or wilfully obstructing the flow of water through sluices, or interfering with the supply intended for irrigation, were punished with the first amercement. The right to take water from registered sources, the easement right to obtain supplies of water in the prescribed, or accustomed manner and the prohibition against causing damage by inundation, against irregular irrigation and against

causing mischief to irrigation works and sluices were thus rigorously enforced even at the time of Chanakya. The Superintendent of Irrigation was required to inspect the irrigation works as often as possible and carry out the necessary repairs by employing village labourers or by co-operative corporations.

Formation of New Colonies in unopened tracts.—New Colonies or Settlements were frequently established in unopened tracts by individual persons, or by groups of men composed of all castes. Experience, however, showed that both such colonies were open to great risks. Colonies established by single individuals very often failed for want of enterprise, character, ability and resources of men and money on the part of the colonizers, while those formed by groups of persons proved, not infrequently, to be so many engines of oppression by the aristocracy over the lower classes, with the result that in both the cases the colonies failed by the desertion of the labouring classes. They were thus neither useful and attractive to the people at large, nor beneficial to the State. In order to provide against such lapses and failures and to protect the interests of Government, Chanakya instituted a new system by which the first settlers, whether individuals or groups of persons, were required to purchase from the king the whole tract over which the colony was proposed to be established, for a stipulated price and to execute an agreement to him. So long as the colonies were worked smoothly and efficiently and paid their taxes in lump to the king, they were allowed to manage their internal affairs in their own way without any interference from outside and to maintain, wherever necessary, their own armies to protect themselves

against invasions by foreigners and strangers. But, where such colonies failed, the king reserved to himself the right to resume the lands. The agreements by which these colonies were governed were called "interminable agreements." Of the several changes introduced by Chanakya into the ancient land systems, this system of Colonization under State grants produced the most far-reaching effect upon the further evolution of the landed institutions in India, as will be explained in the next chapter.

Land Tax.—It appears that by the time of Chanakya the several lower rates prescribed by Manu, viz., 1|8th, 1|10th and 1|12th had all been increased "little by little" to 1|6th, or that Chanakya himself discarded them altogether; for we see that, according to his Arthasastra, the normal, or the lowest rate, of land tax was 1|6th which could be increased to 1|4th or even to 1|3rd in times of distress. The land tax was collected in various forms, such as, fixed taxes, taxes collected in the form of one-sixth of the produce, provisions paid by the people for the army, taxes levied for religious purposes, subsidies paid by vassal Kings and others, taxes collected when there is some margin left for collection (it is not known what these taxes were), compensation for damages done by cattle to crops on crown lands, presentations made to the king, taxes levied on lands under tanks and lakes constructed by the king, water rate for irrigation and so forth. But in spite of the classification of lands as wet, garden and dry, there appears to have been no distinction in the rate of land tax applied to them, nor is there any indication that the differences in the soils and the labour necessary to cultivate them were taken into account in assessing the different descriptions of lands.

Remission of Taxes.—In granting remission of taxes, the essential principle observed was "to bestow on cultivators only such favour and remissions as will tend to swell the treasury" and "to avoid such as will deplete it." Subject to this general principle, remission of taxes was granted only in the following cases in which irrigation works were constructed by private individuals at their own cost:—

(i) In the case of new works constructed, such as tanks, lakes, etc., taxes were remitted for 5 years.

(ii) For repair of neglected and ruined tanks, taxes were remitted for 4 years.

(iii) For improving and extending irrigation works, remission was granted for 2 years.

(iv) Where newly started works were purchased on sale or mortgage, remission was granted for 2 years.

(v) In the case of uncultivated tracts acquired for cultivation by purchase or mortgage, remission was allowed for 2 years.

(vi) For irrigation by wind power, or by damming a river, the cultivator paid only so much produce to the king as would entail the least hardship to him.

Taxes in Times of Distress.—In times of extreme distress, such as war or invasion, the land tax was collected at 1|4th or 1|3rd of the produce from all persons except the following:—

(i) People who lived in tracts of middle or low quality.

(ii) Persons who rendered material help in the construction of fortifications, buildings, roads, the working of mines, etc.

(iii) Those who had established new colonies for cultivating waste lands.

(iv) People who lived on the borders of kingdoms.

(v) Forest tribes.

(vi) Brahmanas.

In the case of all other classes of people, if they did not pay the enhanced rates demanded of them, armies of spies were let loose upon them to collect the taxes by cajolery, deceit, intimidation and pressure. No wonder, then, that Chanakya's Government servants very often sucked "the honey sticking to their tongues" and drank like fish to their heart's content "the perennial flow of wealth passing through their hands" and whatever fines were levied on them were paid by somebody else!

Trade and Commerce.—No less exacting were the trade laws of Chanakya whose sole object was to replenish the treasury by endless exactions. His treasuries were in fact national emporiums, warehouses and godowns where all sorts of merchandise and saleable commodities were collected and stored in such great quantities as to last for several years. They had treasury houses, storehouses of grains, storehouses of forest produce and trading houses. Of the stores collected in these houses, half was kept in reserve to ward off the calamities of the people, and only the other half was used, with the old collections often replaced by new supplies. The Superintendent of Commerce then began to manipulate the prices and profits as follows:

Prices and Profits.—The prices of all merchandise were fixed with due regard to the outlay, the quantity manufactured, the amount of toll, the interest, hire and other kinds of necessary expenses, so as to allow a profit of 5 per cent. on local commodities and 10 per cent. on all imported foreign produce. Merchants who enhanced the prices or realized profits even to the extent of half a pana more than the above rates, were punished with fines. If the collected merchandise could not be sold wholesale at fixed rates, the rates were altered; but in the case of merchandise widely required for distribution, or articles of local manufacture for which there was keen demand, the prices were enhanced from time to time according to the exigencies of the markets. Whenever there was an excess supply of a particular commodity, the Superintendent centralized its sale and prohibited the sale of similar commodities elsewhere before the centralized supply was disposed of. Hawkers and peddlers were employed for wages, where necessary, to sell the king's merchandise in distant parts of the country. Those who sold the king's merchandise at fixed centres should invariably put their sale proceeds in a wooden box provided with a single aperture on the top and kept at a fixed place and should render accounts at the end of each day. Special facilities were afforded to merchants who carried the king's merchandise for sale to foreign countries. As regards private merchants, however, when they brought their products for sale to towns, they were surrounded by a gang of four or five toll collectors even at the toll gate, who set their seal marks upon them after examination and fixed their prices on the spot. The products were sold at once in auction

at the toll gate itself, and if they fetched higher prices than those fixed by the toll collectors, the excess profits were paid into the King's treasury, while if the prices fell below the mark, the owner was made to pay eight times the toll! Use of false weights and seals, adulteration of goods and evasion of tolls were all severely punished.

Sea Customs.—The Superintendent of ships supervised the imports and exports from all sea-port towns and through rivers and lakes. Villages on the sea coast, or on the banks of rivers, paid fixed amounts of trade duties and the fishermen in particular paid one-sixth of their haul as fees for fishing license. Passengers arriving on board the King's ship paid the required sailing fees, while the merchants paid the customary dues on their imports and exports. Ships that touched the harbours on their way, likewise, paid their tolls, but pirate ships and vessels bound for the country of an enemy as well as those that violated the customs rules, were destroyed at once.

Interest on Debt.—The ordinary rate of interest was 1 1|4 per cent. per month. The commercial rate of interest was often as high as 5 per cent. per month and not infrequently a rate of 10 per cent. per month prevailed among foresters and 20 per cent. per month among sea-traders.

Breach of Contracts and Agreements.—If a cultivator failed to carry out the work undertaken by him, he was heavily fined, the fine amount being credited to the Village Fund; in addition to this, he was also required to refund to the owner of the field double the amount of the wages received by him as well as double the value

of food and drink supplied to him during the period he worked. The same rules applied to non-performance of agreement among villagers, castes, families and corporations.

Mint and Coinage.—The Superintendent of Mint carried on the manufacture of silver and copper coins. The small silver coins minted were a pana and half, quarter and one-eighth of it, while the copper coins were a Masha, Kakani, and half a Kakani. Coins of higher denominations were also minted, of which the different units were 'ardha-masha', one masha, two mashas, four mashas, eight mashas, one suvarna, two, four, eight, ten, twenty, thirty, forty and one hundred suvarnas. (16 Mashas — one suvarna or karsha). The Examiner of coins regulated currency both as a medium of exchange and as legal tender admissible into the treasury. The premia levied on coins paid into the treasury were 8 per cent. known as "Rupika", 5 per cent. known as "Vyaji" and one-eighth pana per cent. known as "Parikshika" or testing charge. Whoever brought counterfeit coins was punished with the first amercement and the coins themselves were cut into pieces. The following remarks on the ancient coinage of India by Mr. W. Theobald extracted from Note Kk. of the Appendices to M'crindle's "Ancient India", p. 370, prove beyond doubt that the ancient coinage of India was indigenous and not borrowed from other countries.

"The punch marked coins", he says, "though presenting neither Kings' names, dates, nor inscriptions of any sort, are nevertheless very interesting not only from their being the earliest money coined in India and of a purely indigenous character, but from their being stamped with"

"a number of symbols, some of which we can with utmost confidence declare to have originated in distant lands and in the remotest antiquity. The punch used to produce these coins differed from the ordinary dies which subsequently came into use in that they covered only one of the many symbols usually seen on their pieces. Some of these coins were round and others of a rectangular form. The great bulk of these coins is silver (but some copper and others gold). Some coins are formed of copper blank thickly covered with silver before receiving the impression of the punches and this contemporary sophistication of the currency is found to occur subsequently in various Indian coinages, in the Greeco-Bactrian of the Punjab, the Hindu Kings of Cabul, etc." Mr. Theobald thinks we may regard these pieces as a portion of those very coins (or identical in all respects) which the Brahmin Chanakya, the adviser of Chandragupta, with the view of raising resources, converted by recoining each *Kahapana* into eight and amassed eighty Kotis of Kahapanas (or Karshapanas). Mr. Theobald holds that the square coins, both silver and copper, struck by the Greeks for their Indian possessions belong to no Greek national type whatever, but are obviously a novelty in imitation of an indigenous currency already firmly established in the country. He adduces, by way of proof, the testimony of Curtius, where he states that Taxiles offered Alexander eighty talents of coined silver (signati argenti)."

General Summary.—In brief, the salient features of Chanakya's land and trade policy according to his Arthasastra were:—

The lower rates of land tax, such as, 1|8th, 1|10th and 1|12th, prescribed by Manu were completely

abolished and an all round rate of one-sixth was adopted without regard to the differences in the soils or the labour necessary to cultivate them. In times of distress, this rate was raised to one-fourth, or even one-third, and the enhanced levies were collected by spies from all classes of people except a chosen few. In addition to land tax, a separate charge was made for irrigation from sources constructed at the cost of the State. No remissions were granted except where the ryots constructed new irrigation works, or repaired ruined works, or improved existing works at their own cost. The taxes were collected mostly in kind and the commodities and merchandise so received were lodged in the royal storehouses. The State itself cultivated all the available crown lands either on the home-farm principle, or on a system of 1|4th, 1|3rd or 1|2 waram and thus secured vast quantities of grains, pulses and various other commodities. From the storehouses they were transferred to the trading-houses, where the prices and profits were fixed and altered from time to time according to the pleasure of the officials. The State directly controlled the distribution and sale of all commodities in the public markets, now dumping the country with one kind of produce, at other times prohibiting the sale of other products and very often manipulating the prices with profit to the State. Private individuals were precluded from realizing profits beyond the poor limits of 5 per cent. and 10 per cent. prescribed by Government; and all excess profits secured by them went to the coffers of the State. In all ancient countries where the taxes were collected in kind, such as the Roman Empire, the Neo-Babylonian Empire and the later Persian Kingdom, the State, no doubt, collected the commodities in the State granaries and sold them later on to meet State expendi-

ture; but nowhere is there any evidence to show that the State itself functioned as a cultivator, merchant, monopolist and tax-gatherer, directly controlling the markets and dictating prices and profits to such a meticulous length as Chanakya did in India in about 320 B.C. As despotism knew no limits and political intrigues and convulsions always rudely disturbed the equilibrium of the State finances, the land tax in India also began to lose its fixity and stability almost exactly from the period of Chanakya.

CHAPTER VII.

THE ORIGIN OF VILLAGE COMMUNITIES.

Greek historians on ancient Indian republics.—It is, indeed, somewhat strange to find, in the midst and the vicinity of Chanakya's cast-iron government, village republics and tracts governed by the aristocracy with wholesome and salutary laws observed by the Greek historians that followed Alexander during his invasion of India. Q. Curtius Rufus and Diodorus Siculus refer to the dominions of King Sopeithes[1] where the people were governed by laws "in the highest degree salutary."[2] Alexander is said to have marched against another tribe, the Sabarcae,[3] "a powerful Indian tribe where the form of Government was democratic and not regal" and whose army consisted of "60,000 foot and 6,000 cavalry attended by 500 chariots."[4] When Alexander came to Nyasa,

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1 Sopeithes is a corruption of 'Sophytes' which corresponds to the Sanskrit name 'Saubhutu'. According to Curtius and Diodorus this kingdom was situated to the west of the Hyphaesis or the Bias river.—M'cr. Anc. Ind. pp. 219 and 411.

2 M'cr. Anc. Ind. p. 279.

3 'Sabarcae' is identified with 'Sambastai' of Diodorus or the 'Ambushtha' in the Mahabharata, a people who settled on the lower Akesines.—M'cr. Anc. Ind. pp. 155 and 252.

4 M'cr. Anc. Ind. 252.

the Nyasians sent to him their 'president' whose name was 'Akouphis', and along with him thirty 'deputies' of their most eminent citizens to entreat him to spare the city. They flattered Alexander and begged of him "to permit them to be still free and to be governed by their own laws", and being pleased with their submissions and entreaties, he "confirmed the inhabitants of Nyasa in the enjoyment of their freedom and their own laws." When he enquired about their laws, "he praised them, because the Government of their State was in the hands of the aristocracy."[1] Alexander then advanced towards the Hyphaesis,[2] but seeing that his army was unwilling to go beyond that river, he convoked his officers and told them "that the country beyond the Hyphaesis was exceedingly fertile and that the inhabitants were good agriculturists, brave in war and living under an excellent system of internal government; for the multitude was governed by the aristocracy who exercised their authority with justice and moderation."[3] Again Alexander crossed the river 'Arabios',[4] and invaded the 'Oreitai', "an Indian tribe in those parts which had long been independent."[5] Onosikritos gives a graphic description of the country of Mousikanos where the following customs were peculiar: "to have a common meal which they eat in public as did the Lacedemonians, their food consisting of the produce of the chase; to use neither gold, nor silver, though they have"

1 M'cr. Anc. Ind. pp 79—81.
2 The Hyphaesis is the modern Bias river whose sanskrit name was 'Vipasa'.—M'cr. Anc. Ind. p. 120.
3 M'cr. Anc. Ind. p. 121.
4 'Arabios' is now identified with the Purali river which runs through the district of Las and falls into the Bay of Sonmiyani.—M'cr. Anc. Ind. p. 167.
5 Ibid.

"mines of these metals; to employ, instead of slaves, young men in the flower of their age, as the Cretons employ 'Aphamiotai' and the Lacedemonians, the helots; to study no science with attention except that of medicine; for they regard the excessive pursuit of any art, as war for instance and the like, as wickedness; to have no actions at law but for murder and outrage; for to escape these evils does not lie in one's own power, but it is otherwise in the case of contracts where each one protects his own interests, so that if one of the parties violates his faith, the other must endure the wrong; for a man must be cautious whom he trusts and not engross the attention of the city with his law suits."[1] Verily, it looks like a paradise fit only for saints or simpletons, but they appear to be refugees driven out by exhaustion and despair from Chanakya's dominions!

Numerous other communities and tribes are referred to by several other Greek historians, but the picture presented by them reveals only the features of new colonies established in the Indus-Valley far out of the reach of Chanakya's arms and his army of spies and tax-gatherers. In regard to these independent communities,[1] M'crindle observes: "Here is indicated the system of the Indian village community which in all it's essential features has remained unchanged from the earliest times down to the present day. Such a community occupies a certain extent of land, the boundaries of which are carefully fixed, though often disputed. Sometimes, it is cultivated with the united labour of the inhabitants, but more usually each ploughs his separate field leaving always a large portion"

1 M'cr. Cl. Lit. p. 72.

"of the common. Whatever change may take place in the supreme authority, the peculiar constitution of each township remains unaltered. No revolutions affect it; no conquest changes it. In such communities the Greeks recognised characteristics which forcibly reminded them of the petty independent republics which existed in their own country."[1] It was on the basis of such evidence that the theory of the communistic origin of the idea of property had been built up by the earlier school of constitutional historians, as if that theory had been in operation from the earliest times down to the Greek invasion of India. But the facts set forth in the preceding chapters would suffice to show that there were no traces of communistic property at all prior to the fourth century B.C. and that in spite of repeated references to it, not one of the later day scholars, such as, Julius Jolly, J. D. Mayne and H. B. Baden-Powell, could find a single text in support of it. When and where then did these village republics centralising property rights in their hands originate? Their origin clearly lies in the new system of colonization instituted by Chanakya.

The origin of the Village Communities and the Communistic idea of property.—For the first time, Chanakya lays down rules in the form of questions and answers as to what kind of tracts should be colonized by the people. For instance, a plain or watery land;—if a plain, that suited both for early and late crops, or the reverse;—of watery land, that suited for the growth of grains, or that suited for other crops;—of two tracts of lands, one rich in grains, or the one rich in mines;—of two forests, one

1 See also "British India" of the Edinburgh Cabinet Library, Vol. II, pp. 320 and 330.

productive of timber, or the other productive of elephants; —of two tracts, one with scattered people, or the other with a close corporation of people;—of two colonies, one formed with the four castes, or the one formed with the lowest caste—and so forth. After laying down the rules of preference in regard to the various kinds of colonies, he proceeds to describe their *modus operandi* already explained in the previous chapter under the head 'Formation of New Colonies in unopened tracts'. Inasmuch as, in the first instance, the whole tract or the village was purchased, or taken on mortgage, from the king, the entire body of the first settlers acquired corporate ownership in every inch of land comprised in the tract, and when the population increased in course of time, the successors of the families of the original settlers apparently constituted themselves as the aristocracy of the colonies and administered their own internal affairs according to their own laws and customs and, if necessary, with the help of their own standing armies. The necessity for military protection arose out of the fact that these colonies were established exactly in those tracts which were most open to frequent attacks from foreigners, viz., the Indus-Valley and the North-West Frontier. And the astute Chanakya constituted them as so many buffer-village organizations, or City-States under the suzerainty of his King, with a view to diminish his chances of hostilities with the foreign nations on the North-West. But, then, it may be argued that the earliest Vedic Aryans should also have formed similar colonies and developed their ideas of property from the communities of the original settlers much in the same manner as Chanakya's colonists. There is, however, considerable

difference between the communistic idea of property underlying Chanakya's scheme of colonization and that which was found to exist in the Vedic period. In the earliest stages of the Indo-Aryan immigration, each patriarch was an independent lord owning no allegiance to any king. His sons, grandsons and his retinue of *panchajanas* were entirely dependent upon his personal and autocratic rule with no corporate ideas of property at all. Their ideas of property were no more communistic than were those of the comparatively modern European settlers that first colonized Africa, Australia, the Pacific Islands and Canada. The first settlers in such new tracts were more lords of the soil than owners of property under a sovereign power. The essential requisites of the communistic idea of property are:—

(i) The entire village should from the commencement be subject to the overlordship of a Sovereign State and should pay some tribute, or tax, to the King.[1]

(ii) The corporate ownership should be recognised by the State either by a grant, or agreement, or cowle.

(iii) If a community exists as a separate and independent unit without satisfying conditions(i) and (ii), it forms an independent State by itself and the question of communistic property does not arise at all.

(iv) Every owner of the corporate community should have ownership to a definite share of land or produce, though it may not be differentiated, or marked on the ground.

1 *Vide*—Burton on Real Property already quoted in Chapter IV, Sec. (i).

(v) No outsider who was not a party to the original grant, or at least a successor in title to the original grantees, should be allowed to acquire any rights in the village without the common consent of the general body.

(vi) Re-allotment of shares may be made as often as circumstances may require, with a view to see that the best lands are not given to a few and the poorest lands to others.

(vii) The community should levy local taxes upon themselves to carry on their autonomous administration.

Such self-governing villages with corporate ideas of property came into existence only during the period of Chanakya. The picturesque simplicity of the manners and customs of the autonomous communities observed by the Greek writers shows by itself that they were not the product of an evolution of three thousand years, but the growth of a new system recently introduced at that period. The peace and contentment which such communities enjoyed naturally induced a large portion of the urban population to migrate into the interior and to acquire new rights to properties by establishing several such colonies in other tracts. The inalienability of the lands and the consequent necessity to enjoy them by shares in common soon gave rise to the development of the numerous subordinate land systems, known as, Amani, Pattukattu, Karai-edu, Samudayam, Mirasi and so forth. But the communistic idea of property gradually broke down in its essence in all the provinces of India governed by the Hindu Law of equal division of property. Even the Mitakshara Law of the 11th century A.D. refers only to the distant and reversionary rights of cognates, agnates and sapindas to the property of a family and

not to the common property of a corporate community. In the absence of scientific surveys carried out from time to time to give effect to the ever-recurring mutations of holdings, the several forms of managing the land systems of the communistic villages were, however, perpetuated more as a means of preserving individual rights than as the necessary ingredients of a system of corporate property. Nevertheless the term 'village communities' is very often used to indicate something like a communistic or socialistic interest. Baden-Powell rightly points out that the expression is apt to mislead:—"It can be correctly used only with reference to the fact that in many villages *families* live together under a system which makes *them* joint owners; while in others the people merely live under similar conditions and under a sense of tribal or caste connection and with a common system of local government. *It cannot be used as suggesting any idea of having the land or anything else in common.*"[1] The italics are ours. There are thus two types of village communities, both of which are distinct in origin, but one of which alone possesses curious forms and varieties. Their distinctive features are well described by Baden-Powell as follows:—

"In the one type the aggregates of cultivators have no claim as a joint-body to the whole estate, dividing it among themselves on their own principles; nor will they acknowledge themselves in any degree jointly liable for burdens imposed by the State. Each man owns his own holding which he has inherited, or bought, or cleared from the original jungle. The waste surrounding the village is used for grazing and wood-cutting, but no one"

1 Bad.-Pow. Vol. I, p. 113.

"in the village claims it as his, to appropriate and cultivate without leave; still less do the whole group claim it jointly to partition when they please.

"In the other type—owing to causes which we shall presently investigate—a strong joint body, probably descended (in many cases) from a single head, or single family, has pretensions to be of higher caste and superior title to the 'tenants' who live on the estate. The site on which the village habitations, the tank, the grave-yard and the cattle-stand are, is claimed by them; and the others live in and use it only by permission—perhaps on payment of small dues to the proprietary body. The same body claim jointly (whether or not they have separate enjoyment of portions) the entire area of the village, both the cultivated land and the waste. If this waste is kept as such, they alone will receive and distribute any profits from grazing, sale of grass, or jungle fruits, or fisheries; if it is rented to tenants, they will divide the rents; if it is partitioned and broken up for tillage, each sharer will get his due portion. There are other differences, but these suffice for our immediate purpose.

"As a matter of fact the first type of village is the one most closely connected with Hindu Government and Hindu ideas. And the second type is found strongly developed among the Punjab frontier tribes who were converted to Muhammadanism; it is also universal among Jhats, Gujhars and other tribes in the Central Punjab, as well as among conquering Aryan tribes and descendants of chiefs and nobles in other parts."[1]

1 Bad.-Pow. Vol. I, pp. 107—108.

The first type of village communities is certainly the one very largely found all over India, while the second type is confined almost exclusively to the settlements made by the 'coloni' under Chanakya's scheme of colonization and governed by sanads and grants originally granted by the King. The joint-ownership in the latter case arises from the fact that the joint-body of the original settlers purchased the entire tract from the King subject to his overlordship and to the payment of a lump tax. They, no doubt, held their lands in common and enjoyed them in shares. But such village communities possessing corporate property are now found only in the Punjab which even from the time of Manu and Amarasinha stood excluded[1] from the limits of Aryavarta and which is still governed, not by the Hindu Law of property, but by the customary law of the province. Elsewhere, the so-called village communities merely presented the outward features of local autonomy in imitation of the communistic villages of the Punjab, but never possessed any common property rights, much less any right to the village wastes and pasture grounds. In the administration of land, however, certain precedents and practices had grown up which soon developed into various forms of landed institutions peculiar to certain provinces and tracts, but at no time did they militate against the individualistic theory of property which stands unaltered and inviolable from the time of Manu down to

1 According to Panini the Aryavarta was bounded on the north by the Himalayas, on the south by 'Parvyatraka', which literally means the limit of travelling up to the Vindhya range, on the west by 'Adarshvali' now contracted into Aravali hills in Rajputana, and on the east by 'Kalakavana' or the modern Rajmhal hills—Thus the Aryas of the Punjab and Valhika were excluded from the Aryavarta—Kumte 'Ary-Civil' p. 389.

the present day. Nor is there any evidence to show that in the first and the almost universal type of village communities, the people ever enjoyed dual rights, viz., an individualistic right to cultivated lands and a communistic right to the waste and pasture grounds, at any rate prior to the Christian era.

Before concluding, we may be permitted to point out that, though Baden-Powell has not attempted to trace the evolution of land tenures in ancient India stage by stage, still the foundations of the colossal structure he has raised in his memorable work are laid exactly at the time and stage where our evolution of the same land system during a period of over three millenniums before the Christian era just now comes to a close.

CHAPTER VIII.

THE RETROSPECT.

We have now come to the end of our thesis. In tracing the evolution of a system of laws governing the vital and vested interests of millions of people for a long period of over three millenniums, one cannot always expect to see the bright side of the picture. There may be, and must be, dark spots and objectionable features, such as those disclosed by Chanakya's system, but no impartial student of ancient history can afford to overlook them. In all evolutions they very often appear and disappear *in transitu* leaving us all the more wise by experience. With strict regard to accuracy and impartiality, therefore, we have built up a synthetic structure of the evolution of Manu's Land and Trade Laws out of the materials which, though already available to the public, we have for the first time collected together and presented in one shape as a narrative of a continuous and progressive evolution; and in doing so, we have studiously eschewed oriental exaggeration, and personal element and have supported every statement with authorities even at the risk of multiplying quotations. The points which

we have thus ventured to prove in this thesis and which are summarized below, though somewhat novel and even opposed to the established theories of the Indian antiquarians, will still be found to be based upon reasonable and satisfactory data.

(1) The Code of Manu is essentially Sumerian in origin and was compiled from the same source as King Hammurabi's Code of Babylon, the Assyrian Code and the Hattic Code of Cappadocia.

(2) It deals with a state of society in India closely analogous to that found in Babylon, from 2400 B.C. to 2000 B.C.

(3) The original Code of Manu was compiled by the priest-king Jamadhagni Bhrigu and the abridged code which we now possess, was prepared by his son, Parasurama, in about 2300 B.C.

(4) The exploits of the Mahabharata and the Ramayana, most probably, took place in the same century between 2300 B.C. and 2200 B.C., the former Epic being compiled by Vyasa somewhat earlier and Valmiki closely following it with his Ramayana within one or two generations in the same century.

(5) The idea of property in India was essentially individualistic from the commencement of the Vedic period and passed through four stages of evolution (*a*) the constructive period, (*b*) the legislative period, (*c*) the working period and (*d*) the period of amending legislation, before the beginning of the Christian era.

(6) Manu's one-sixth share of land tax was not an all round universal rate, but was the highest one in a gliding scale of rates; his normal rate in prosperous

years was only one-twelfth which was liable to be enhanced "little by little" up to one-sixth, or even one-fourth in times of distress.

(7) The several fractional rates prescribed by Manu were levied only after making allowance for the expenses of cultivation and the distribution of the produce.

(8) Chanakya abolished all the lower rates and adopted one-sixth as the minimum rate, with power to raise it to one-third in times of distress, when the enhanced rates were collected by spies through pressure and intimidation.

(9) The taxes were, besides, manipulated by the State control of prices, the State itself functioning as a cultivator, merchant and tax-gatherer.

(10) The communistic idea of property is a later growth originating from the scheme of colonization instituted by Chanakya in the fourth century B.C.; but it soon broke down in all provinces governed by the Hindu Law of property, except in the Punjab which is still governed by the customary law of the province.

(11) The village communities were held together merely by a sense of clannish affinity and family relationship and in no way connote a communistic idea of property.

Points (1) to (4) may appear to be rather unnecessary in a thesis dealing with the evolution of land and trade laws; but as the Code of Manu practically forms the starting point for our investigation and that Code discloses striking features of identity with the ancient Codes of Central Asia, we have been obliged to reconstruct the several stages of evolution with reference to the

new materials now brought to light and to present them in their proper perspective.

The Indo-Aryans entered India *en masse* with their families and panchajanas, and each family under a patriarch occupied vast areas and acquired the rights of possession and ownership by virtue of first occupation and retention. These patriarchs who had already reached the monarchical stage of evolution in Central Asia at once established themselves as independent lords, fighting their own wars with the Dasyus and, sometimes also, with their own neighbours. They were at first not only owners of their family domains, but also the *de facto* lords of the soil; but with the establishment of the new monarchies in India and the dismemberment of the old patriarchal estates, each family head took his rank as an ordinary citizen in a commonwealth of tribes united into a principality or kingdom. The head of each such family cultivated his own lands and carried on trade and commerce both by sea and land, entering into contracts with others and charging usurious rates of interest even at the time of the Rig Veda. These individual rights to land and other property soon received legal confirmation at the hands of the author of the Code of Manu who gave the dominant right of proprietorship in the soil to the King and allowed the people to acquire the servient right of ownership, both in relation to the State and as against each other. The King never interfered with the people's right of ownership except as the ultimate reversioner in case of escheat. Unless specifically exempted, all people paid taxes to the king in some form or other and looked to him for protection of their life, person and property. The basic principle of Manu's land

administration was thus essentially Ryotwary. Inams were gradually created in favour of privileged classes, religious and charitable institutions, artizans and other service performers, some of which were permanent, while others could be enjoyed only so long as the services were rendered. In course of time vassal kings and tributary chiefs began to pay tributes and taxes with concessions and exemptions which paved the way for the creation of the military or Zamindari tenures. The system of fixing lump taxes upon villages newly colonized brought into existence various forms of sub-tenures, or rather several systems of land administration, such as the Village system, the Joint-renting system, the Pattukattu, Amani, Mirasi and so forth. The nursery ground from which our modern landed institutions grew up had thus been fully laid out and prepared within the four centuries preceding the Christian era.

In regard to land tax Manu prescribed, so far back as 2300 B.C., a graduated scale of rates ranging from one-sixth to one-twelfth to be applied according to the differences of the soils and the labour necessary to cultivate them. The lowest rate of one-twelfth was always called the normal rate in normal years and it was increased "little by little" to one-sixth in prosperous years and one-fourth in times of distress, always making allowance for the expenses of cultivation and transport. This system continued unaltered throughout the Epic period and even during the greater part of the Suthra period. From about 700 B.C. India became the El Dorado of wealth, attracting numerous hordes of adventurous foreigners, such as, the Persians, the Indo-Scythians and the Greeks, whose successive invasions from outside, coupled

with the rise of Buddhism within India, rudely disturbed the stability and tranquility of kingdoms and empires, with the result that the kings themselves were almost always in distress and ever lived in distrust of others. This was, apparently, the reason why the land tax had been permanently raised to one-sixth by Chanakya who very often collected increased levies from people by using pressure through spies.

Trade and commerce always formed an integral part of the Indo-Aryan polity from the Vedic period, because usury in India possessed a peculiarly Vedic origin and was always regarded as an indication of profitable trade. Manu levied moderate taxes, tolls and duties on all saleable merchandise out of the profits secured by the agriculturists and merchants, and in order to determine such profits he vested the control of prices in the hands of the State. This small safety-valve with which Manu originally manipulated the revenues of the State with discrimination and benevolence, was used later on as a weapon of oppression by Chanakya who allowed the State to compete with the people as cultivator, merchant and tax-gatherer, so that no man could make any independent profit beyond a certain limit.

In the distant parts of the dominions which his arms could not effectively reach, but where the enemies could easily penetrate, Chanakya created several buffer-village organizations, or autonomous colonies, which not only yielded a fixed revenue to Government, but also served as frontier stations of defence. These colonies consisted of homogenous village communities possessing communistic property rights and administered by democratic councils with the help of their own standing armies.

Though at first the glamour of peaceful administration and acquisition of new property rights induced the poorer inhabitants of the towns to establish several such colonies elsewhere, the new order of things did not satisfy the growing aspirations of the succeeding generations; for the communistic idea of property set a premium upon individual enterprise and adventure and made all people alike slaves of the body politic of the entire community. And the result was that in all the provinces governed by the Hindu Law of equal division of property and where the people had no need for private standing armies to protect themselves against foreign invasions, the communistic idea gradually disappeared. But as the old forms of communal administration proved conducive to the growth of a corporate feeling among the villagers and helped them, in the absence of a survey and settlement, to preserve and maintain their individual rights, they were perpetuated more as convenient methods of land administration than anything else. In the Punjab alone, this communistic idea of property still prevails, and it is this peculiar feature that has enabled the modern British Administrators in that province to deal with entire villages for purposes of revenue administration and thereby to dispense with the necessity of checking encroachments on communal lands, making assignments of waste lands, charging water rate for irregular irrigation and inspecting individual fields for settling the annual fluctuating revenues. There, the management of the waste and communal lands and the distribution of water supply within villages are left entirely in the hands of the villagers who pay a lump revenue to Government without any interference from subordinate officials. The simplicity of the Punjab system often induced other provinces to adopt that

model, but all attempts to do so have so far proved futile. This is mainly due to the fundamental difference in the conception of property in land prevailing in the Punjab and in the other provinces. The modern craze for stickling after individual rights can never reconcile itself to the domination of the village oligarchies, especially in regard to rights to land and water which are of vital importance to the Indian agriculturists. The mere adoption of the several communal forms of village administration will be of no avail to change the system.



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[NOTE.—*The Numbers refer to pages.*]

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ASSOCIATED PRINTERS, MOUNT ROAD, MADRAS.